STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED April 25, 2000
v	No. 213332 Ingham Circuit Court
STEFFON HARLAN BROWN, Defendant-Appellant.	LC No. 98-073148-FC

Before: Wilder, P.J., and McDonald and Doctoroff, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, two counts of delivering less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and possession of a firearm during a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to consecutive terms of forty-eight months' to fifteen years' imprisonment for the robbery conviction, two to twenty years' imprisonment for each delivery of cocaine conviction, and two years' imprisonment for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant first argues that the prosecution failed to present sufficient evidence at trial to support his armed robbery conviction because there was no evidence that defendant committed some forceful act (i.e., an assault) to effectuate the taking of the money from the confidential informant's person or presence. Defendant contends that because the confidential informant testified that she did not see defendant's gun until after defendant snatched the cash from her, no robbery occurred. We disagree.

When reviewing a sufficiency of the evidence claim, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999); *People v Wolfe*, 440 Mich 508, 513-514; 489 NW2d 748 (1992). The elements of armed robbery are (1) an assault, (2) a felonious taking of property from the victim's person or presence, and (3) the defendant must be armed with a dangerous weapon. *People v Johnson*, 215 Mich App 658, 671; 547 NW2d 65 (1996); *People v Turner*, 213 Mich App 558, 569; 540 NW2d 728 (1995). See MCL 750.529; MSA 28.797.

The assault element of armed robbery is satisfied where a defendant commits an unlawful act that places another person in reasonable apprehension of receiving an immediate battery. *People v McConnell*, 124 Mich App 672, 678; 335 NW2d 226 (1983). That the assault does not occur until after the defendant has taken the property is of no import. *People v Velasquez*, 189 Mich App 14, 17; 472 NW2d 289 (1991); *People v Tinsley*, 176 Mich App 119, 120; 439 NW2d 313 (1989). Robbery is a continuous offense which is not complete until the perpetrator reaches a place of temporary safety. *Velasquez, supra*; *Tinsley, supra*. Thus, the use of force or intimidation in retaining the property taken or in attempting to escape rather than in taking the property itself is sufficient to supply the element of force or coercion essential to the offense of robbery. *Velasquez, supra*; *Tinsley, supra* at 122.

In the present case, the confidential informant testified that after defendant took the money, defendant reached into his coat and revealed the butt end of a gun. The confidential informant testified that she then became very frightened and "wanted to get out of there." As they exited the house, the confidential informant inquired about the money defendant had taken, but defendant told her to stay in his driveway. Viewing this evidence in the light most favorable to the prosecution, a rational trier of fact could conclude that defendant's taking of the money and his subsequent act of showing the confidential informant the butt end of his gun were part of a continuous transaction intended to communicate that any attempts to reclaim the money would be met with force. *Velasquez, supra*; *Tinsley, supra*. A rational trier of fact could also conclude that the robbery was not complete until defendant ordered the confidential informant to remain in his driveway while he walked away. Having already seen defendant's gun, the confidential informant would have been in reasonable apprehension of receiving an immediate battery when defendant walked away from his house with the cash. See *People v Newcomb*, 190 Mich App 424, 431; 476 NW2d 749 (1991). On this record, we find there was sufficient evidence for a reasonable jury to conclude that all the essential elements of armed robbery were proven beyond a reasonable doubt.

Defendant next argues that he was denied a fair trial when the confidential informant stated on cross-examination that she had taken and passed a polygraph test. We disagree.

Defendant did not object to this testimony, nor did he request a curative instruction from the trial court. Therefore, we review this issue only for manifest injustice. *People v Ramsdell*, 230 Mich App 386, 404; 585 NW2d 1 (1998).

Michigan law is well settled that the results of a polygraph test are not admissible as evidence. *People v Ortiz-Kehoe*, 237 Mich App 508, 514; 603 NW2d 802 (1999); *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995); *People v Kosters*, 175 Mich App 748, 754; 438 NW2d 651 (1989); *People v Yatooma*, 85 Mich App 236, 238; 271 NW2d 184 (1978). The rationale for this rule is that polygraph results and the examiner's opinions of veracity are of questionable accuracy. *People v Mechigian*, 168 Mich App 609, 612; 425 NW2d 199 (1988). However, a witness' brief, unsolicited, and inadvertent reference to a polygraph may be harmless and does not always warrant reversal. *Ortiz-Kehoe, supra* at 514; *Turner, supra* at 576; *Kosters, supra* at 754.

In this case, the witness briefly mentioned her polygraph during cross-examination but did not state the results of the test. The witness' statement was unsolicited, inadvertent, and no further inquiry was made into the matter. Moreover, defendant did not object to the testimony or request a curative instruction. Thus, we conclude that defendant was not deprived of a fair trial and did not suffer manifest injustice by admission of the challenged statement. *Ramsdell*, *supra*.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Gary R. McDonald
/s/ Martin M. Doctoroff