

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAY A. JOHNSON,

Defendant-Appellant.

UNPUBLISHED
November 6, 2001

No. 226307
Wayne Circuit Court
LC No. 99-006835

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of armed robbery, MCL 750.529, entered after a jury trial. We affirm.

Complainant testified that defendant and another man, Ronnie Baker, approached him on the street after following him for some time. Defendant grabbed complainant's gold chain, and told him to look to his left. Complainant did so, and saw Baker with his hands under his shirt. Complainant saw an object pointed in his direction. Baker told complainant to not try anything, and that he had "something" for him. Defendant tore the chain from complainant's neck, handed a bracelet that fell from the chain to Baker, and struck complainant in the face with his fist. Defendant and Baker fled the scene, but were apprehended by police who witnessed the incident.

The trial court found defendant guilty of armed robbery on an aiding and abetting theory. The court found that the evidence showed that defendant assaulted complainant and took property from his person, and that defendant and Baker acted in concert to commit the offense.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

* Circuit judge, sitting on the Court of Appeals by assignment.

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000).

The elements of armed robbery are: (1) an assault; (2) a felonious taking of property from the victim's presence or person; (3) while the defendant is armed with a weapon described in the statute. MCL 750.529; *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993). Armed robbery does not require the use of an actual weapon. If the perpetrator is not armed with a dangerous weapon, he must be armed with an article that is used or fashioned in a manner that leads the victim to reasonably believe that the article is a dangerous weapon. *People v Banks*, 454 Mich 469, 472-473; 563 NW2d 200 (1997); *People v Parker*, 417 Mich 556, 565; 339 NW2d 455 (1983).

To establish that the defendant aided and abetted a crime, the prosecution must show that: (1) the crime was committed by the defendant or another person; (2) the defendant performed acts or gave encouragement that assisted the commission of the crime; and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement. *People v Jones (On Rehearing)*, 201 Mich App 449, 451; 506 NW2d 542 (1993). An aider and abettor's state of mind can be inferred from all the facts and circumstances. *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995).

Defendant argues that insufficient evidence was presented to support his conviction. He does not contest the sufficiency of the evidence establishing the elements of an assault and a taking of property from complainant's person, but he contends that no evidence showed that he knew that Baker was using his hands in a manner that would lead complainant to reasonably believe that Baker was armed with a dangerous weapon. We disagree and affirm defendant's conviction. Complainant's testimony, which the trial court as finder of fact was entitled to accept, *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989), established that defendant and Baker approached him together. The evidence that Baker used his hands in a manner designed to make complainant reasonably believe that he was armed, i.e., by pointing at complainant from under his shirt, coupled with Baker's remark that complainant should not try anything and that he had "something" for complainant, satisfied the element of being armed. *Banks, supra*; see also *People v Grihm*, 148 Mich App 285, 289; 383 NW2d 631 (1986). The evidence that defendant specifically told complainant to look to his left, where Baker stood holding his hands in the manner described, supported an inference that defendant knew that Baker intended to act in such a way as to make complainant reasonably believe that he was armed. *Turner, supra*. Viewed in a light most favorable to the prosecution, the evidence was

sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Kurtis T. Wilder

/s/ Chad C. Schmucker