

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LOUIS BROWN, JR.,

Defendant-Appellant.

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UNPUBLISHED

June 4, 2002

No. 230613

Oakland Circuit Court

LC No. 00-171872-FC

Before: Murphy, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, and carrying a concealed weapon, MCL 750.227. He was sentenced to concurrent terms of five to twenty years' imprisonment for the armed robbery conviction and eleven months to five years' imprisonment for the carrying a concealed weapon conviction. Defendant appeals as of right and we affirm.

Defendant argues that the prosecution failed to present sufficient evidence to support his convictions of armed robbery and carrying a concealed weapon. In order to determine whether sufficient evidence has been presented to sustain a conviction, this Court must view the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crimes were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

This case involves the robbery of a Clark gas station located in the city of Pontiac on May 12, 2000. Two men, who were wearing masks and were armed, entered the store and took money from a safe and a cash register. Defendant was involved in the planning of the robbery and he was the driver of the getaway car.

Defendant was convicted on the armed robbery charge as an aider and abettor. To support defendant's armed robbery conviction, the prosecution must prove beyond a reasonable doubt that (1) the armed robbery was committed by defendant or someone else, (2) defendant encouraged or acted in some way to assist the armed robbery, and (3) defendant intended to commit armed robbery or knew that the principal intended to commit armed robbery at the time he gave aid and encouragement. *People v Carines*, 460 Mich 750, 768; 597 NW2d 130 (1999). The elements of armed robbery are: (1) an assault, (2) a felonious taking of property from the victim's person or presence, (3) while the defendant is armed with a weapon. *People v Allen*,

201 Mich App 98, 100; 505 NW2d 869 (1993). Aiding and abetting includes any form of assistance, encouragement, or incitement of the commission of a crime. *People v Rockwell*, 188 Mich App 405, 411-412; 470 NW2d 673 (1991). An aider and abettor's intent may be inferred from all the facts and circumstances surrounding the crime. *Carines, supra* at 768. Circumstantial evidence and reasonable inferences drawn from that evidence may be used as proof of the elements of a crime. *Allen, supra* at 100. Mere presence at the scene of the crime, even with knowledge that a crime is being committed, is not enough to establish aiding and abetting. *People v Norris*, 236 Mich App 411, 420; 600 NW2d 658 (1999).

When viewing the evidence in the light most favorable to the prosecution, we find that the prosecution presented sufficient evidence to support defendant's conviction for armed robbery as an aider and abettor. Evidence was presented to show that defendant was present at one or more discussions about robbing a gas station. In fact, the final decision regarding which gas station would be the target was made in defendant's car while defendant was driving. Evidence was also presented which showed that defendant had control over the clothing and gun used in the robbery as these items were originally kept in the trunk of defendant's car, for which only he had the key. Defendant drove the codefendants to the gas station, remained in the car while the gas station was robbed, and then drove the codefendants away after the robbery. Defendant was driving his car when the police stopped it a short distance from the scene of the armed robbery, with the two identified armed robbers and the property taken from the gas station present in the car. The police found \$352 in cash, mostly in single-dollar bills, in defendant's pocket. Accordingly, the jury could have found beyond a reasonable doubt, based on these facts, that defendant was guilty of armed robbery as an aider and abettor.

Likewise, when viewed in the light most favorable to the prosecution, we find that the prosecution presented sufficient evidence to support defendant's conviction for carrying a concealed weapon. The elements of carrying a concealed weapon are that (1) a gun was present in a motor vehicle driven or occupied by defendant, (2) defendant knew or was aware that a gun was present in the vehicle, and (3) defendant was "carrying" the gun. *People v Nimeth*, 236 Mich App 616, 622; 601 NW2d 393 (1999); *People v Courier*, 122 Mich App 88, 90; 332 NW2d 421 (1982). The element of "carrying" the gun is distinct from the element of knowledge that the gun is present in the vehicle, and proof of such knowledge does not automatically prove that defendant is "carrying" the gun. *Courier, supra* at 90. Circumstantial evidence and reasonable inferences drawn from that evidence may be used as proof of the elements of a crime. *Allen, supra* at 100.

Evidence was presented that, contrary to defendant's claim, defendant knew about the gun's presence in his automobile. Witness testimony indicated that the gun was in the trunk of defendant's car until it was moved to the front seat by one of the codefendants. Defendant had control over the key to the trunk, and therefore, over the trunk and its contents. The gun was held by the codefendant in the front seat beside defendant while defendant was driving to and from the scene of the robbery. The gun was thrown out the front passenger-side window when the police began to follow defendant's car. It was reasonable for the jury to infer that defendant knew the gun was present in the car.

Also, it reasonable for the jury to infer that defendant was "carrying" the gun. Here, defendant had control over the gun when it was in the trunk of his car. In fact, defendant stopped to pick up an additional key to the trunk so that access to the trunk could be gained. Defendant

was aware that the gun was in the car. Defendant drove and was in control of the car the entire time leading up to, during, and after the armed robbery. Defendant knowingly transported the gun; therefore, the jury could reasonably conclude, based upon these facts, that defendant was “carrying” the gun. The prosecution presented sufficient evidence to support defendant’s conviction for carrying a concealed weapon.

Affirmed.

/s/ William B. Murphy

/s/ Kathleen Jansen

/s/ Kirsten Frank Kelly