

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD LOWELL LADOW,

Defendant-Appellant.

---

UNPUBLISHED

March 4, 2004

No. 244286

Kent Circuit Court

LC No. 02-000094-FC

Before: Schuette, P.J., and Meter and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for armed robbery, MCL 750.529. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant asserts that there was insufficient evidence to support his conviction because there was no evidence that he intended to commit a robbery. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). The standard of review is deferential: a reviewing court must draw all reasonable inferences and make credibility choices in support of the jury verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The elements of armed robbery are (1) an assault and (2) a felonious taking of property from the victim's person or presence while (3) armed with a weapon described in the statute. *People v King*, 210 Mich App 425, 428; 534 NW2d 534 (1995). In a specific intent crime, an aider and abettor must have the same intent as the principal. *People v Mass*, 464 Mich 615, 628; 628 NW2d 540 (2001).

A reasonable juror could find that defendant committed an assault with a weapon by threatening complainants with a utility knife. There was testimony that defendant knew about the robbery before it was committed and that he shared in the proceeds of the robbery. There was sufficient evidence to support the conviction.

Defendant also argues that he was denied the effective assistance of counsel when his attorney failed to impeach complainant with his statement at the preliminary examination that the crime was almost comical, showing that there was no assault.

To establish an ineffective assistance of counsel claim, defendant must first show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms. The defendant must overcome a strong presumption that counsel's actions constituted sound trial strategy. Second, the defendant must show that there is a reasonable probability that, but for counsel's error, the result of the proceeding would have been different. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

At the preliminary examination, one complainant described the crime as almost comical, because the three people were drinking and said they did not care if he called the police. Although the situation may have been comical, that does not negate the fact that complainants were threatened with a weapon. Had counsel cross-examined complainant about his statement, it is unlikely that the jury would have changed its verdict.

Affirmed.

/s/ Bill Schuette

/s/ Patrick M. Meter

/s/ Donald S. Owens