

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BERNARD ANTOINE HARDRICK,

Defendant-Appellant.

UNPUBLISHED

December 11, 2007

No. 273146

Wayne Circuit Court

LC No. 05-012354-01

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions for carjacking, MCL 750.529a, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant to three to five years' imprisonment for the carjacking conviction, and a consecutive term of two years' imprisonment for the felony-firearm conviction. We affirm. We decide this appeal without oral argument under MCR 7.214(E).

The victim, Kevin Robinson, worked as a pizza delivery person on Detroit's west side. At approximately 10:30 p.m. on November 16, 2005, Robinson delivered a pizza to the home of a regular customer. As Robinson turned to walk back to his vehicle, he saw a man standing "right at the car door, by the car window." Robinson testified that he and the man looked directly at each other, and that the man pointed a gun "right at me." According to Robinson, the man then fired two shots in the air and said, "Run your ride. Run the ride."¹ Robinson recalled that a distance of six feet separated him from the man, and that the area was "pretty well-lit" by a street light and the customer's porch light. Robinson averred that he got a good look at the man's face before the man and two accomplices jumped into the car and drove it away. Four days after the carjacking, Robinson identified defendant's photograph from an array that included the photos of five other men.

At the trial 10 months later, Robinson did not make an in-court identification of defendant as his assailant. He testified that he felt "[v]ery positive" about the photo identification, and that there was "no doubt" in his mind that the man he selected from the photo

¹ Other testimony established that "run it" means "give it up."

lineup committed the carjacking. Robinson recounted that on the evening of the carjacking, he told the police that his assailant stood between 5'3" and 5'4" tall, and had "kind of a stocky" build. On cross-examination, however, he admitted that his signed statement indicated that the carjacker was 5'8" tall, weighed 160 pounds, and was in his mid-twenties. Robinson acknowledged that at the time of the carjacking, he himself weighed about 180 pounds. The investigating police officer testified that when the carjacking occurred, defendant was 18-years-old and weighed 220 pounds.

The prosecution also presented the testimony of Terrance Scoggins, another pizza delivery driver, pursuant to MRE 404(b)(1). Scoggins testified that in October 2005, during a pizza delivery on Detroit's west side, defendant put a gun to his head and told him to "run the cash and run my cell phone." Scoggins identified defendant from the same photographic array shown to Robinson.

The trial court convicted defendant of carjacking and felony-firearm, finding that although some "discrepancies" existed in Robinson's testimony regarding the assailant's height and weight, Robinson expressed certainty about his identification of defendant. Additionally, the trial court noted that it was "more interested" in "the confidence with which" a witness made an identification than in the potential and inherent inaccuracies associated with estimates of height and weight.

Defendant contends that because Robinson's descriptions of the carjacker did not match defendant's size, weight, or age, insufficient identification evidence supported his conviction. We review a challenge to the sufficiency of the evidence in a bench trial de novo, and in a light most favorable to the prosecution. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000), aff'd 466 Mich 39; 642 NW2d 339 (2002). The credibility of testimony establishing identification is a matter to be resolved by the trial court, which we will not resolve anew. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Here, the trial court noted that Robinson identified defendant without hesitation or doubt, and that his trial and preliminary examination testimony were consistent. Although the trial court expressed "some concern" regarding Robinson's identification of defendant, it concluded that with "the benefit of Mr. Scoggins' testimony," the prosecutor proved beyond a reasonable doubt that defendant committed the charged offenses. The record supports the trial court's analysis and its decision.

Defendant also contends that his conviction must be reversed because no evidence other than Robinson's identification testimony linked defendant to the crime. However, unsupported eyewitness testimony of a victim, standing alone, constitutes sufficient evidence to convict. *People v Richards*, 76 Mich App 695, 698; 256 NW2d 793 (1977); *People v Newby*, 66 Mich App 400, 405; 239 NW2d 387 (1976). We conclude that when viewed in the light most favorable to the prosecution, the evidence supplied by Robinson and augmented by Scoggins sufficed to convict defendant beyond a reasonable doubt.

Affirmed.

/s/ Bill Schuette
/s/ Stephen L. Borrello
/s/ Elizabeth L. Gleicher