

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

EVAN MATTHEW WOODS,

Respondent-Appellant.

UNPUBLISHED

December 11, 2007

No. 273633

Wayne Circuit Court

Family Division

LC No. 04-432359-DL

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

MEMORANDUM.

Respondent appeals as of right his bench trial adjudication of guilty of assault with intent to rob and steal while armed, MCL 750.89. The trial court directed that respondent be placed in a low-level security facility, and that he attend individual and group therapy, anger management classes, and substance abuse treatment. We affirm. We decide this appeal without oral argument under MCR 7.214(E).

At approximately 8:00 p.m. on December 14, 2005, two boys accosted the victim, Antionne McKinley, as McKinley walked to a neighborhood convenience store. McKinley testified that the boys pushed him into a fence, and one of them “showed me a gun and pointed it to my head.” The other boy took McKinley’s wallet. McKinley identified respondent as the boy who held the gun.

The store owner, Kassam Bazzi, testified that he saw “two kids that had another kid pinched up against the fence.” A few minutes later, McKinley’s grandmother called Bazzi to report the assault. Bazzi recounted that as he listened to McKinley’s grandmother on the phone, “four kids were walking in the store,” and two of them wore clothing that matched the grandmother’s description of McKinley’s assailant. When the police arrived, Bazzi identified respondent as one of the assault perpetrators.

Respondent argues on appeal that insufficient evidence supported the trial court’s adjudication, because at the time of the assault it was dark outside and other neighborhood boys wore attire similar to respondent’s, and because discrepancies and contradictions existed in the trial testimony. 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). Any conflicts

in the evidence must be resolved in favor of the prosecution. *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004). 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).

Viewed in the light most favorable to the prosecution, sufficient evidence proved respondent's guilt beyond a reasonable doubt. The trial court noted in its bench opinion that despite the "contradictory testimony" presented, McKinley consistently identified respondent as one of his assailants, and Bazzi's testimony corroborated McKinley's. Additionally, the trial court found respondent's exculpatory testimony incredible. The trial court's finding of guilt beyond a reasonable doubt has ample support in the record.

Affirmed.

/s/ Bill Schuette

/s/ Stephen L. Borrello

/s/ Elizabeth L. Gleicher