

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

QUANDEAL DEVON BUGGS,

Defendant-Appellant.

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UNPUBLISHED

February 5, 2008

No. 275481

Oakland Circuit Court

LC No. 2006-211099-FC

Before: Bandstra, P.J., and Donofrio and Servitto, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions for two counts of armed robbery, MCL 750.529. Defendant was sentenced, as a second habitual offender, MCL 769.10, to 16 to 30 years in prison for each conviction. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's convictions arise out of a robbery that took place in a house frequented by drug dealers and users. Four eyewitnesses gave overlapping and conflicting accounts of the robbery, which was not voluntarily reported to police for fear of running afoul of the law for the their own conduct. The incident was investigated approximately one month later in conjunction with an unrelated homicide investigation. The witnesses' testimony was in accord insofar as it placed defendant in the house with a small, silver handgun, demanding and taking money from one or more of the occupants.

Defendant argues on appeal that there was insufficient evidence to convict him of armed robbery. In particular, defendant argues that the evidence was contradictory and, thus, insufficient to establish one of the counts, or, alternatively, that sufficient evidence regarding the date of the incident was not presented. We disagree.

This Court reviews claims of insufficient evidence de novo, viewing the evidence in the light most favorable to the prosecutor, to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005).

The elements of armed robbery are: (1) an assault, and (2) a felonious taking of property from the victim's presence or person, (3) while armed with a weapon. *People v Smith*, 478 Mich 292, 319; 733 NW2d 351 (2007). To show an assault, the evidence must prove that the

defendant either made an attempted battery or placed another in reasonable apprehension of an immediate battery. *People v Watkins*, 247 Mich App 14, 33; 634 NW2d 370 (2001), aff'd 468 Mich 233 (2003). “[C]onflicts in the evidence must be resolved in favor of the prosecution.” *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004). The trier of fact is charged with the responsibility of making credibility determinations and resolving inconsistent evidence. *Id.*, p 561; *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999).

All four witnesses testified that defendant was in the house, pointing a gun at its occupants, and demanding and taking money. All four witnesses agreed that defendant took money from one victim, Terry Tudhope. Two witnesses testified that defendant took money from another, Kirtus Thurston. Another witness contradicted this testimony. The jury must make credibility determinations and resolve inconsistencies in the evidence. *Fletcher, supra*, p 562. The jury was entitled to believe the testimony of any or all of the four witnesses. The jury evidently credited the testimony establishing the taking of Thurston’s money during the robbery. This Court must defer to these factual resolutions of inconsistent evidence. *Id.* There was sufficient evidence that the jury, after resolving the inconsistency, could conclude that defendant robbed both Tudhope and Thurston at gunpoint.

Defendant also argues on appeal that the lack of clarity surrounding the date of the charged offenses interfered with his ability to provide an alibi defense. When reviewing the evidence, this Court must determine whether a rational trier of fact could conclude that the essential *elements* of the charge were proven beyond a reasonable doubt. *Tombs, supra*, p 459. Time is not an *element* of armed robbery. *Smith, supra*, p 319. Moreover, an alibi defense would not make time an element of armed robbery. See *People v Dobek*, 274 Mich App 58, 83; 732 NW2d 546 (2007). The prosecution need not prove time beyond a reasonable doubt. *Id.* It is for the jury to evaluate whether this ambiguity impairs the credibility of the witnesses. Additionally, the information filed in this case charged defendant with conduct that occurred on or about June 20, 2006, and two of the witnesses agreed that the incident may have occurred on this date. Defendant did not even attempt to present an alibi for this date. Thus, the prosecution presented sufficient evidence that a rational trier of fact could conclude that the elements of armed robbery were proved beyond a reasonable doubt.

Affirmed.

/s/ Richard A. Bandstra  
/s/ Pat M. Donofrio  
/s/ Deborah A. Servitto