

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK CONRAD GARNER,

Defendant-Appellant.

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UNPUBLISHED

April 1, 2008

No. 277019

Muskegon Circuit Court

LC No. 06-053313-FH

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

PER CURIAM.

Following a bench trial, defendant was convicted of unarmed robbery, MCL 750.530, and sentenced, as a fourth habitual offender, MCL 769.12, to 8 to 20 years' imprisonment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On May 12, 2006, defendant entered a Family Dollar store when the assistant manager was counting money to give to one of the cashiers. The money being counted was in banded prepackaged bundles from the bank marked as \$100 in five-dollar bills and \$50 in one-dollar bills. When defendant saw the money, he turned and tried to grab it. He was unsuccessful on the first attempt, and when he tried a second time, the assistant manager shoved the money into the safe below the counter. Some of the one-dollar bills went flying as the assistant manager tried to get all the money into the safe.

When the assistant manager counted the money after defendant left the store, she was two dollars short of what should have been there according to the bank bundles. A police officer found defendant approximately twenty minutes after the incident. Defendant was in a Dumpster and had exactly two dollars on his person.

Defendant argues on appeal that the trial court erred in its finding that he committed robbery. Rather, the evidence should have left the trial court with reasonable doubt regarding whether he actually obtained any money or was simply unsuccessful in his attempt to commit robbery.

When determining whether sufficient evidence was presented to the trial court to support a conviction, this Court views the evidence in the light most favorable to the prosecution and determines "whether a rational trier of fact could find that the essential elements of the crime

were proven beyond a reasonable doubt.” *People v Passage*, 277 Mich App 175, 177; 743 NW2d 746 (2007).

This Court will not interfere with the trier of fact’s role of determining the weight of the evidence or the credibility of witnesses. Circumstantial evidence and reasonable inferences that arise from such evidence can constitute satisfactory proof of the elements of the crime. All conflicts in the evidence must be resolved in favor of the prosecution. [*Id.* (internal citations omitted).]

The evidence presented was that the money being counted by the assistant manager was bundled and banded, but it was store policy to always count the money even if it came directly from the bank. Assuming that the bank’s bundles were accurate, there were \$2 missing after defendant left the store. When defendant was found approximately 20 minutes later, he had exactly two one-dollar bills on him.

When viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could find that defendant succeeded in taking two dollars from the Family Dollar store. Therefore, there was sufficient evidence to support the trial court’s determination.

Defendant raised a second issue on appeal concerning whether he should have received jail credit for time served prior to sentencing. Defendant’s argument was centered on the fact that there was no parole detainer in the file. Following defendant’s submission of his appellate brief, the parole detainer was made part of the file via stipulation of the parties and order of the trial court. Accordingly, this issue has been rendered moot by the filing of the parole detainer and will not be addressed further.

Affirmed.

/s/ Kirsten Frank Kelly  
/s/ Donald S. Owens  
/s/ Bill Schuette