

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAN BENJAMIN CLEMONS,

Defendant-Appellant.

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UNPUBLISHED

June 3, 2008

No. 277616

Wayne Circuit Court

LC No. 06-012643-01

Before: Davis, P.J., and Murray and Beckering, JJ.

PER CURIAM.

Defendant was convicted of armed robbery, MCL 750.529. He was sentenced, as a third habitual offender, MCL 769.11, to 7 to 20 years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole issue on appeal is that there was insufficient evidence to support his armed robbery conviction. We disagree. When reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). The evidence is viewed in the light most favorable to the prosecutor, and this Court determines whether a rational trier of fact could find that the essential elements of the crime charged were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

The victim, Craig Hanley, spoke to defendant on the phone. The purpose of their conversation was to arrange for Hanley to purchase marijuana from defendant. At the location of their meeting, defendant told Hanley to wait on the front porch of a building, while defendant went around to a side door. Two men took Hanley at gunpoint from the exact location where defendant instructed him to wait. They held a shotgun to his neck, told him he was going to die, and took various possessions from him. They then struck him with the shotgun and instructed him to run without turning back if he did not want to be shot.

At trial, Hanley testified that the two men took him to the side of the building where defendant had gone. During this time, Hanley did not notice any side doors. The investigating officer testified that the building had only one entrance - the front entrance - and no side or back doors. Both Hanley's and the officer's testimony regarding the appearance of the building suggested that it might have been abandoned. The officer explained that the neighborhood where the incident occurred was residential in nature; however, it was a high crime area, known for drug activity. The trial judge found defendant guilty of armed robbery, on a theory of aiding

and abetting, holding that there was no doubt in his mind that defendant set Hanley up to be robbed.

Defendant argues that the prosecutor did not present evidence of a connection between defendant and the other two men. He insists that even if he was in the vicinity of the armed robbery, mere presence is insufficient evidence to establish that he aided and abetted the men who robbed Hanley.

The elements of armed robbery as follows: (1) the defendant used force or violence, assaulted, or put one in fear during the course of committing a larceny, and (2) the defendant either possessed a dangerous weapon, an article fashioned in a manner to lead a person to reasonably believe it is a dangerous weapon, or represented that he was in possession of a dangerous weapon. *People v Chambers*, 277 Mich App 1, 9; 742 NW2d 610 (2007). It was undisputed that defendant was not one of the principals who actually robbed Hanley.

A person who aids or abets a principal in the commission of a crime may be convicted and punished as if he committed the crime himself. *People v Robinson*, 475 Mich 1, 5-6; 715 NW2d 44 (2006). To establish that a defendant aided and abetted a principal, the prosecutor must show that: (1) the crime charged was committed by the defendant or some other person; (2) the defendant performed acts or gave encouragement which assisted the commission of the crime; and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement. *People v Carines*, 460 Mich 750, 757-758; 597 NW2d 130 (1999). Aiding and abetting includes all types of assistance given to a principal and all words or acts that may support the commission of a crime. *Id.* at 757. An aider and abettor's state of mind may be inferred from the surrounding facts and circumstances. *Id.* at 757-758.

Defendant gave Hanley instructions to drive to a specific location. When Hanley arrived there, he waited in his car as instructed by defendant. He flashed his lights, like defendant told him to do, so that defendant could verify that Hanley was there. He followed defendant away from the safety of his car and toward a dark and abandoned building, which defendant led Hanley to believe was either his home or his girlfriend's home. Hanley then waited on the porch of the building, as defendant expressly told him to do. In fact, when Hanley tried to follow defendant, he was told to go back to the porch and wait. Defendant emphasized that he would go around to a side door and then would come through the building to let Hanley in. Hanley's testimony, that no side door existed, was corroborated by the officer's inspection of the scene, which revealed that the building's only entrance was the front door where Hanley stood. Mere seconds after defendant went around to the side of the building, two men appeared, walked past Hanley, and headed in the same direction as defendant. Only a few more seconds later, the men reappeared and asked Hanley if he wanted to buy marijuana – the exact purpose for which Hanley had agreed to meet defendant. At no point during the armed robbery that followed did defendant reappear to either complete the transaction or to give Hanley further instructions.

Defendant argues that the prosecutor did not present evidence of his participation in the crime or his flight from the scene. Defendant asserts that it was not unusual for someone selling drugs to act secretly, nor was it odd that other people in a drug-ridden area would ask Hanley if he wanted to buy marijuana. Defendant further explains that there were some apartments

located behind the building where Hanley waited, which is why he said he was going around to the side.

Although defendant asserts that the armed robbery that occurred was a random and unrelated incident, the fact that crime was not unusual in the area does nothing to contradict the evidence establishing defendant's role in the incident. It is likely that defendant knew Hanley would bring cash to purchase the marijuana, making Hanley an appropriate target for the crime. The prosecutor provided ample evidence of the events leading up to the armed robbery. It was those events, each of which was a step controlled by defendant, which led Hanley to the very spot where he was robbed at gunpoint. In addition, defendant never returned to find Hanley, which could reasonably lead to the conclusion that he fled from the scene.

It is for the trier of fact to determine what inferences can fairly be drawn from the evidence presented. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). Here, a rational trier of fact could have found that defendant acted as an aider and abettor by luring Hanley to the location where the robbery was to take place, and leaving him there so that it would. We conclude that sufficient evidence existed to support defendant's conviction.

Affirmed.

/s/ Alton T. Davis  
/s/ Christopher M. Murray  
/s/ Jane M. Beckering