

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRIN DUANE WILSON,

Defendant-Appellant.

UNPUBLISHED

August 26, 2008

No. 278875

Washtenaw Circuit Court

LC No. 06-001322-FC

Before: Cavanagh, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of one count of carjacking, MCL 750.529a, two counts of armed robbery, MCL 750.529, one count of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, one count of receiving or concealing a stolen motor vehicle, MCL 750.535(7), and one count of third-degree fleeing and eluding, MCL 257.602a(3). Defendant appeals as of right, challenging only the sufficiency of evidence as to his identification. We affirm.

Defendant's argument centers around the fact that the victims of the crimes initially identified someone else as the perpetrator in a photo lineup and only later, at the corporeal lineup and in court, identified defendant as the perpetrator. Considering the evidence in the light most favorable to the prosecution, as this Court must do when reviewing a sufficiency challenge, we hold that a rational trier of fact could have found that his identity was proven beyond a reasonable doubt. *People v Sherman-Huffman*, 466 Mich 39, 40; 642 NW2d 339 (2002). When reviewing sufficiency challenges, deference should be afforded to all reasonable inferences and determinations of credibility made by the jury. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

In this case, there was substantial circumstantial evidence linking defendant to the crimes in addition to the positive identification of him as the perpetrator by the victims both in court and at a corporeal lineup. Defendant points to discrepancies like the prior misidentification at the photo lineup and the testimony that the perpetrator was dressed in clothing dissimilar to the clothing defendant was wearing at the time of his arrest. However, the jury could have determined defendant had changed clothing since there was a significant period of time that defendant was unaccounted for after the commission of the crimes. Additionally, defendant was not included in the photo lineup, so the jury could have reasonably found defendant's exclusion was the reason for the misidentification. Regardless of the few contradictions in the evidence,

the jury found defendant's identity as the perpetrator had been proven beyond a reasonable doubt. *Id.* "The credibility of identification testimony is a question for the trier of fact that we do not resolve anew." *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). With this standard in mind, the jury properly found there was sufficient evidence identifying defendant as the perpetrator of the charged crimes.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kathleen Jansen

/s/ Kirsten Frank Kelly