

**IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON**

**DIVISION II**

STATE OF WASHINGTON,

Respondent,

v.

KAYLEAH LYNN DAVIS,

Appellant.

No. 42765-6-II

UNPUBLISHED OPINION

Quinn-Brintnall, J. — A jury convicted Kayleah Davis of first degree robbery while armed with a deadly weapon. She appeals, arguing that the State did not present sufficient evidence that she took personal property from the victim’s person or was armed with a deadly weapon. We affirm.<sup>1</sup>

The evidence is sufficient if, when viewed in a light most favorable to the jury’s verdict, it permits any rational trier of fact to find the essential elements of the crime beyond a reasonable doubt. *State v. Salinas*, 119 Wn.2d 192, 201, 829 P.2d 1068 (1992). “A claim of insufficiency admits the truth of the State’s evidence and all inferences that reasonably can be drawn therefrom.” *Salinas*, 119 Wn.2d at 201.

For the jury to find Davis guilty of first degree robbery, the State had to prove beyond a reasonable doubt that she (1) unlawfully took personal property from the person of another; (2) by the use or threatened use of immediate force; and (3) during the commission of the robbery, was (i) armed with a deadly weapon; (ii) displayed what appeared to be a deadly weapon; or (iii)

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<sup>1</sup> A commissioner of this court initially considered Davis’s appeal as a motion on the merits under RAP 18.14 and then transferred it to a panel of judges.

inflicted bodily injury. RCW 9A.56.190 and 9A.56.200(1)(a). For the court to impose a deadly weapon sentencing enhancement, the State had to prove beyond a reasonable doubt that Davis was armed with a deadly weapon when she committed the robbery. RCW 9.94A.533(4).

Taken in the light most favorable to the jury's verdict, the evidence established the following. On December 4, 2010, William Howard went to the Emerald Queen Casino with 25 \$100 bills in his pockets. He went to the slot machine area where he sat next to Alan Randolph and Davis, whom he had never met before. Howard was drinking and displaying his cash. Randolph and Davis discussed a plan to take Howard's money from him.<sup>2</sup> They offered Howard a ride and he got in their car. He still had cash in his pockets. He thought they were taking him to Lakewood, but instead they drove across the Tacoma Narrows Bridge. Nervous about what was occurring, he asked to use the bathroom and Randolph and Davis stopped behind a school in Port Orchard. Once the car stopped and Howard got out, Randolph jumped in front of him and told him, "Give me your money and you won't get hurt." Report of Proceedings (RP) (Jul. 7, 2011) at 85-86. Howard took off running but Randolph tackled him and started choking him. Randolph told Davis, "Do it now," and Davis started going through Howard's pockets. RP (July 7, 2011) at 45-46. Randolph and Davis got up and drove away. After they left, Howard noticed that he was bleeding. He also noticed his money was gone.

Randolph, who said he did not have a knife on his person that night, noticed blood all over his body. He asked Davis what she did and she replied, "I stabbed him." RP (July 7, 2011) at 89. Randolph put his and Davis's bloody clothes in a bag and put the bag in a dumpster. The next

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<sup>2</sup> Randolph pleaded guilty to robbing Howard and testified against Davis.

day, he called 911 and turned himself in and told officials where the bloody clothes were. In a later search of the area behind the school, police found a twenty dollar bill, a ten dollar bill and a one dollar bill, all with blood on them. They also found a knife with a 3.5-inch long blade in the bag with the bloody clothes. Although Davis's jeans had been bleached, DNA (deoxyribonucleic acid) on the jeans and the knife matched Howard's.

Based on this evidence, and the inferences taken reasonably from it, any rational trier of fact could find beyond a reasonable doubt that Davis took money from Howard's person while armed with a knife and, in the process of doing so, stabbed him. For sentencing purposes, any knife having a blade longer than three inches is a deadly weapon. RCW 9.94A.825.

Accordingly, the State presented sufficient evidence that Davis committed first degree robbery while armed with a deadly weapon and Davis's sufficiency of the evidence challenge fails.

We affirm.<sup>3</sup>

A majority of the panel having determined that this opinion will not be printed in the Washington Appellate Reports, but will be filed for public record in accordance with RCW 2.06.040, it is so ordered.

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Quinn-Brintnall, J.

We concur:

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<sup>3</sup> Davis filed a statement of additional grounds under RAP 10.10, asserting that she did not receive a fair trial because her trial attorney did not raise the issue of her disability, which, according to the statements read at her sentencing, involved brain trauma. But she does not identify how that disability would have been relevant to her trial.

No. 42765-6-II

Hunt, J.

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Johanson, A.C.J.