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UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

STATE OF ARIZONA, *Appellee*,

v.

BRYON ALEXANDER YSASI, *Appellant*.

No. 1 CA-CR 16-0790
FILED 11-14-2017

Appeal from the Superior Court in Maricopa County
No. CR2014-161220-001
The Honorable Gregory Como, Judge

AFFIRMED

COUNSEL

Arizona Attorney General's Office, Phoenix
By Joseph T. Maziarz
Counsel for Appellee

Michael J. Dew, Attorney at Law, Phoenix
By Michael J. Dew
Counsel for Appellant

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MEMORANDUM DECISION

Presiding Judge James P. Beene delivered the decision of the Court, in which Judge Randall M. Howe and Judge Kent E. Cattani joined.

B E E N E, Judge:

¶1 Bryon Ysasi ("Ysasi") appeals his conviction and sentence for armed robbery. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 In December 2014, the victim, P.W., and Anthony Walker ("Walker") were staying in a hotel in Scottsdale. Because P.W. was short on cash, she posted an online advertisement for prostitution that included her phone number. Walker was unaware that P.W. had posted the advertisement. Although potential clients, including Ysasi, were contacting P.W., she waited for Walker to leave the hotel room before responding. Once alone, P.W. returned Ysasi's call, giving him the hotel name and room number where she could be contacted.

¶3 Within five minutes, Ysasi was at P.W.'s room. P.W. let Ysasi into the room, but immediately felt uncomfortable, and walked toward the bed to pick up her phone from the nightstand. As she reached for her phone, Ysasi grabbed her from behind and put her in a chokehold. While choking P.W., Ysasi told her, "I'm going to kill you," "you're a rip off and all of you girls are rip offs," and "you're going to die so go ahead and try to scream." P.W. could not breathe, began to lose consciousness, and eventually blacked out.

¶4 When P.W. regained consciousness, she felt Ysasi wrapping electrical tape around her throat. Ysasi then dragged P.W. to the bathroom and dropped her into the bathtub. As this was happening, P.W. said she felt "the metal of a gun to the back of [her] head." Once in the bathroom, P.W. remembered seeing Ysasi walking away with her makeup bag.

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¶5 Meanwhile, as Walker returned to the hotel, he heard arguing and screaming coming from inside the room. Enlisting the help of two nearby hotel employees, Walker began banging on the door of the room he shared with P.W. Eventually, Ysasi opened the door looking "disoriented," "out of breath," "shaking," and "sweaty." Ysasi then tried shutting the door, but Walker pushed it open. Ysasi attempted to leave, carrying P.W.'s makeup bag, but Walker and the employees subdued him. Walker jumped on top of Ysasi and began to beat him. During the altercation, Walker pulled a gun out of Ysasi's jacket.

¶6 P.W. was found in the bathroom, unconscious and covered in blood. Once the police arrived, they found P.W.'s makeup bag and its contents scattered around the scene. The officers arrested Ysasi, searched him, and found two cell phones: one black and one pink. An officer asked Ysasi if both phones were his, to which he replied that the black phone was his, but he did not know where the pink phone came from. P.W. testified that the pink phone belonged to her and Ysasi did not have permission to take her phone.

¶7 Ysasi was charged with attempted first-degree murder, kidnapping, armed robbery, and two counts of aggravated assault. He was acquitted of attempted first-degree murder but was convicted on the remaining counts. Ysasi was sentenced to concurrent terms of 17 years' imprisonment on the kidnapping and armed robbery offenses, and 10 years' imprisonment on one of the aggravated assault offenses. The superior court suspended sentence on the remaining aggravated assault offense and placed Ysasi on two years' probation upon release from prison.

¶8 Ysasi timely appealed. We have jurisdiction under Arizona Revised Statutes ("A.R.S.") sections 12-120.21(A)(1), 13-4031, and -4033(A).

DISCUSSION

¶9 Ysasi argues insufficient evidence supports his conviction for armed robbery because he took P.W.'s property subsequent to his use of force, which he contends was not coextensive with any coercion of P.W. to surrender her property. We disagree.

¶10 We review *de novo* the sufficiency of the evidence to support a conviction and consider both direct and circumstantial evidence to determine if substantial evidence supports the jury verdict. *State v. West*, 226 Ariz. 559, 562, ¶¶ 15–16 (2011). We view the evidence in the light most favorable to upholding the verdict, and resolve all conflicts in the evidence against the defendant. *State v. Girdler*, 138 Ariz. 482, 488 (1983). "[T]he

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relevant question is whether after viewing the evidence in the light most favorable to the prosecution, *any* rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt." *State v. Cox*, 217 Ariz. 353, 357, ¶ 22 (2007) (citation omitted).

¶11 A defendant commits armed robbery "if in the course of taking any property of another from his person or immediate presence and against his will, [the defendant] threatens or uses force against any person with intent either to coerce surrender of property or to prevent resistance to [the defendant] taking or retaining property," A.R.S. § 13-1902(A), and, in the course of committing robbery, the defendant is "armed with a deadly weapon or a simulated deadly weapon," A.R.S. § 13-1904(A)(1). "'In the course of committing' includes any of the defendant's acts beginning with the initiation and extending through the flight from a robbery." A.R.S. § 13-1901(2). The defendant does not need to display, nor does the victim need to see, the weapon to satisfy the statutory element of "being armed with a deadly weapon." *State v. Garza Rodriguez*, 164 Ariz. 107, 111 (1990); *State v. Snider*, 233 Ariz. 243, 246, ¶ 8 (App. 2013).

¶12 The superior court properly instructed the jury that the State must prove that (1) defendant took property of another person; (2) the taking was from the other person's person or immediate presence; (3) the taking was against the other person's will; (4) defendant used or threatened to use force against any person with the intent to force surrender of the property or to prevent resistance to taking or keeping the property; and (5) defendant, in the course of committing the robbery, was armed with a deadly weapon. The State has met its burden in proving Ysasi committed armed robbery.

¶13 As detailed above, Ysasi took P.W.'s makeup bag and cell phone without P.W.'s permission, used force against P.W. with the intent to prevent her from resisting him, and was armed with a deadly weapon during the commission of the offense. Viewing the direct and circumstantial evidence in the light most favorable to upholding the verdict, we conclude that sufficient evidence supports Ysasi's conviction for armed robbery.

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CONCLUSION

¶14 For the foregoing reasons, we affirm Ysasi's armed robbery conviction and sentence.



AMY M. WOOD • Clerk of the Court
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