Cite as 2011 Ark. App. 441

ARKANSAS COURT OF APPEALS

DIVISION III
No. CACR 11-86

BRIAN LUNSFORD and EDWARD EVANS APPELLANTS V. STATE OF ARKANSAS APPELLEE	**Opinion Delivered** June 15, 2011 APPEAL FROM THE HOT SPRING COUNTY CIRCUIT COURT [NO. CR-2009-253-2] HONORABLE PHILLIP H. SHIRRON, JUDGE AFFIRMED

WAYMOND M. BROWN, Judge

A Hot Spring County jury found Brian Lunsford and Edward Evans guilty of robbery and sentenced them to ten years and eight years, respectively, in the Arkansas Department of Correction. They challenge the sufficiency of the evidence to support the conviction, contending that there was no evidence that they used physical force during the commission of a theft. We disagree, as the evidence shows that one of the men knocked down the victim while he was attempting to retrieve his laptop. This evidence was sufficient to satisfy that element of the crime. Therefore, we affirm.

Evidence presented by the State shows that Robin Staton, a truck driver, pulled into a rest area to make sure his computer logs were up to date. A man approached Staton's truck and told him that there was someone in the parking lot who had just won the lottery and that he was

giving away money. The man explained that the person giving away money would match whatever people had of value. Intrigued, Staton went to investigate. He went to the parking lot and saw a man counting out and handing money to others in a small group. There were five or six people in the group, and two of them looked like truck drivers.

Staton took his laptop and $250 in cash with him. When he approached the group, the man who had approached Staton earlier took the money, stating that he needed to count it. Another guy, who was later identified as Evans, took Staton's laptop. The two men then took off running in opposite directions. The other men closed around him. Staton chased Evans, as the laptop was more important to him than the cash. When Staton took off, Lunsford appeared from in between the cars and knocked him down. (The testimony was inconsistent as to whether Lunsford knocked him down, pushed him backward, or tackled him, but Lunsford did something to interfere with him chasing Evans.) Staton did not see what car Evans ran toward, but he saw a dark colored van and a silver car speed away from the rest area. He jumped in his truck, called 911, and followed behind. He could not keep up with the vehicles due to the interstate traffic, but police officers caught up and told him to return to the rest area. Police later stopped vehicles that matched the description of those described by Staton, and they found Staton's laptop.

The State charged Lunsford, Evans, and three other men of robbing Staton. Lunsford, Evans, and one of the other men were tried together before a Hot Spring County jury. The jury found all three guilty of robbery. Lunsford was sentenced to ten years' imprisonment plus a

$5000 fine. Evans was given an eight-year term of imprisonment. The third man was given five years' probation.

The only question here is whether the State presented sufficient evidence to support the robbery conviction. When considering a challenge to the sufficiency of the evidence, we consider the evidence in the light most favorable to the State, considering only the evidence in favor of the guilty verdict, and affirm if the conviction is supported by substantial evidence.[1] Substantial evidence is evidence forceful enough to compel a conclusion one way or the other beyond suspicion or conjecture.[2]

To prove that Lunsford and Evans committed robbery, the State had to show that, with the purpose of committing a theft or resisting apprehension immediately after committing a theft, they employed or threatened to immediately employ physical force upon Staton.[3] "Physical force" is any bodily impact, restraint, or confinement or a threat of any bodily impact, restraint or confinement.[4] Though Lunsford and Evans committed different roles in the scheme to deprive Staton of his property, they are accomplices in that scheme and are equally responsible for the acts of all parties involved.[5]

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[1] *Mitchem v. State*, 96 Ark. App. 78, 238 S.W.3d 623 (2006).

[2] *Baughman v. State*, 353 Ark. 1, 110 S.W.3d 740 (2003).

[3] Ark. Code Ann. § 5-12-102(a) (Repl. 2006).

[4] Ark. Code Ann. § 5-12-101 (Repl. 2006).

[5] *See* Ark. Code Ann. § 5-2-402(2) (Repl. 2006); *Wilson v. State*, 365 Ark. 664, 232 S.W.3d 455 (2006).

In arguing that there was no robbery, Lunsford and Evans argue that one cannot be convicted of robbery merely by snatching property from another person.[6] But the force in question here is Lunsford knocking down Staton, preventing him from chasing Evans. The definition of robbery includes physical force used to resist apprehension after committing a theft.

The appellate courts have been called upon to determine the sufficiency of the evidence to support a robbery conviction on many occasions. The amount of force here is not too dissimilar from the force used in *Turner v. State*[7] (where the robbers blocked the victim's path and grabbed her wrist with enough force to compel her to drop her billfold), *Baldwin v. State*[8] (where a carjacker jerked the victim's hand from the horn and blocked her exit from the car), and *Scott v. State*[9] (where a shoplifter struck a security officer with enough force to knock him to the ground). In all of these cases, the appellate court held that the State presented sufficient evidence to establish the use of physical force.

Lunsford and Evans also argue that the jury was left to speculate as to what actually happened as Staton chased Evans. They note the inconsistent testimony about what specifically

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[6] *Parker v. State*, 258 Ark. 880, 885, 529 S.W.2d 860, 863 (1975) ("[T]he mere snatching of money or goods from the hand of another is not robbery, unless some injury is done to the person or there be some struggle for possession of the property prior to the actual taking or some force used in order to take it.").

[7] 270 Ark. 969, 606 S.W.2d 762 (1980).

[8] 48 Ark. App. 181, 892 S.W.2d 534 (1995).

[9] 27 Ark. App. 1, 764 S.W.2d 625 (1989).

happened between Staton and Lunsford. They claim that this "was simply a matter of two men running into each other while one was attempting to flee and the other chasing the man with the laptop." In so arguing, they note that, at 275 pounds, Staton was much larger than Lunsford. This, however, was a matter for the jury to determine. We will not pass upon the credibility of a witness, and we have no right to disregard the testimony of any witness after the jury has given it full credence, unless the testimony is inherently improbable, physically impossible, or so clearly unbelievable that reasonable minds could not differ thereon.[10] Based on Staton's testimony, the jury could have reasonably concluded that Lunsford knocked him down in an effort to allow Evans and the others to get away with Staton's property.

The State presented sufficient evidence to support the robbery convictions. Accordingly, we affirm.

Affirmed.

PITTMAN and GLADWIN, JJ., agree.

[10] *Wyles v. State*, 368 Ark. 646, 249 S.W.3d 782 (2007).