

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2003

FREDERICK L. CANADY,

Appellant,

v.

CASE NO. 5D01-3415

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 20, 2003.

Appeal from the Circuit Court
for Lake County,
T. Michael Johnson, Judge.

James B. Gibson, Public Defender,
and Jane C. Almy-Loewinger, Assistant
Public Defender, Daytona Beach,
for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and David H. Foxman,
Assistant Attorney General, Daytona
Beach, for Appellee.

THOMPSON, C.J.

Frederick Canady appeals his conviction for attempted felony murder. We affirm.

Canady contends that there was insufficient evidence of the underlying felony of attempted robbery, to support his conviction for attempted felony murder. The victim testified that when Canady came into the victim's convenience store, Canady immediately restrained the victim and told

his cohort, the gunman, to shoot. The victim testified that after he was shot, he saw people on the street outside and began yelling for help. Canady and the gunman then tried to take him to the beer cooler at the back of the store. The victim initially testified that he did not recall hearing either man ask for money, but later, when asked if either of the men asked in any way for money, the victim replied, "When Canady hold me, ask money, I show him at the cashier. . . . In just in a very quick moment he just say that [sic]." Asked for Canady's exact words, the victim testified, "He asked me where's the money." There was testimony by Byrd, the getaway driver, that the trio had driven around earlier in the day thinking about whether to rob the store, at which, Canady had told the others, they could get some "easy money." Although at trial Byrd and Canady tried to minimize the sense of purpose the trio had, they admitted having discussed the robbery while driving around. Further, Byrd testified that they obtained a gun and a mask, that his assignment was to be the getaway driver, and that the gunman's assignment was to be the lookout. We think this evidence was sufficient proof of the underlying felony of attempted robbery.

AFFIRMED.

PETERSON and SAWAYA, JJ., concur.