FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-1368

EUSTACE J. CAMERON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
Martin A. Fitzpatrick, Judge.

February 12, 2020

B.L. THOMAS, J.

Appellant challenges the trial court's denial of his motion for judgment of acquittal. He argues that the State's evidence was insufficient to establish the putting-in-fear element of robbery. We affirm.

The victim was at work when he noticed Appellant exiting the store without paying for the merchandise in his shopping cart. The victim asked Appellant for a receipt, and Appellant replied that he had already paid. When the victim again asked Appellant for a receipt, Appellant responded by saying either "all right, young man, don't get shot," or "don't walk up on me." At the same time Appellant said this, he looked down at his hip. The victim backed off and let Appellant exit the store. The victim followed Appellant

into the parking lot, and then reported the incident to the loss and prevention department.

At trial, when asked whether the victim felt threatened by the encounter with Appellant, the victim said, "maybe, I guess." The victim also testified that he never saw a gun and Appellant never showed him a gun.

The standard of review on a motion for judgment of acquittal is de novo. *Pagan v. State*, 830 So. 2d 792, 803 (Fla. 2002); *Dunn v. State*, 206 So. 3d 802, 804 (Fla. 1st DCA 2016). Where the State has produced competent evidence to support every element of a crime, the denial of a judgment of acquittal must be affirmed. *Anderson v. State*, 504 So. 2d 1270, 1271 (Fla. 1st DCA 1986).

Appellant argues the trial court erred in denying his motion for judgment of acquittal because the State failed to present sufficient evidence of the putting-in-fear element of robbery. Under Florida law, robbery is:

> the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

§ 812.13(1), Fla. Stat. (2016); *Diaz v. State*, 14 So. 3d 1156, 1157 (Fla. 4th DCA 2009). The trier of fact must determine whether the defendant's conduct would have placed a reasonable person in fear of death or great bodily harm. *Id.* at 1157-58; *Thomas v. Stat*e, 989 So. 2d 735, 736 (Fla. 1st DCA 2008). Thus, the inquiry is objective, not subjective.

The evidence here when viewed in a light most favorable to the State is sufficient to support a finding that Appellant's actions would put a reasonable person in fear. Appellant's statement to the victim along with his gesture to his hip, are circumstances that would induce fear in the mind of a reasonable person. *See Brown v. State*, 397 So. 2d 1153, 1155 (Fla. 5th DCA 1981) (holding circumstances were such that they would induce fear in the mind

of a reasonable person where the defendant approached a bank teller and handed her a note saying, "this is a holdup," but the bank teller was unaware whether the defendant had a gun and testified that she was not nervous or upset during the incident). A reasonable person could infer from Appellant's actions that he had a gun and he was willing to use it. Thus, the trial court's denial of Appellant's motion for judgment of acquittal was proper and his judgment and sentence is affirmed.

AFFIRMED.

BILBREY and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and David A. Henson, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Steven E. Woods, Assistant Attorney General, Tallahassee, for Appellee.