

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY J. DIXON,

Defendant-Appellant.

UNPUBLISHED

November 21, 1997

No. 197263

Recorder's Court

LC No. 95-010470

Before: Griffin, P.J., and Sawyer and O'Connell, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions for assault with intent to commit murder, MCL 750.83; MSA 28.278, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to serve consecutive prison terms of ten to fifteen years and two years for the respective convictions. We affirm.

While in the drive through line at a Kentucky Fried Chicken restaurant, complainant noticed defendant and three other men approaching his car from the rear. Complainant watched defendant in his mirror and saw defendant pull a ski mask over his face, pull out a gun, and "rack the weapon back." Complainant sped out of the parking lot as defendant fired three shots at his car. Several police officers in the area heard the shots and chased defendant, who was still wearing a ski mask and carrying a gun. Defendant was caught and placed under arrest; a semiautomatic pistol and ski mask were retrieved from defendant. Later that same evening, complainant identified defendant at the police station as the man who fired shots at his car.

The sole issue for this Court's consideration on appeal is whether the prosecution failed to present sufficient evidence to support defendant's convictions. We review defendant's claim of insufficient evidence in a light most favorable to the prosecution, and conclude that a rational trier of fact could have found guilt beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 269-70; 380 NW2d 11 (1985).

Defendant argues that the prosecution's identification testimony was so inconsistent that the prosecution did not prove beyond a reasonable doubt that defendant was the one who fired the shots at

the complainant. However, the credibility of identification testimony is a matter for the trial court, as the trier of fact, to decide. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). We will not resolve it anew. *Id.*

Although the witnesses' testimony with regard to the description of defendant was somewhat inconsistent, we believe that the cumulative testimony of complainant and the police officer who arrested defendant, when combined with the stipulation that the casings recovered at the scene were fired in the gun that defendant threw away when he was tackled by the officer, was sufficient evidence to establish defendant's identity beyond a reasonable doubt.

Affirmed.

/s/ Richard Allen Griffin

/s/ David H. Sawyer

/s/ Peter D. O'Connell