

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIE JONES, JR.,

Defendant-Appellant.

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UNPUBLISHED

June 16, 1998

No. 200917

Detroit Recorder's Court

LC No. 96-003945

Before: Sawyer, P.J., and Bandstra and J.B. Sullivan\*, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of unarmed robbery, MCL 750.530; MSA 28.798. Defendant was sentenced to two to fifteen years' imprisonment. Defendant appeals his conviction as of right. We affirm.

On appeal, defendant first claims that there is insufficient evidence to support his conviction. In reviewing the sufficiency of the evidence in a criminal case, we must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Morton*, 213 Mich App 331, 334; 539 NW2d 771 (1995). Circumstantial evidence and reasonable inferences drawn therefrom may constitute satisfactory proof of the elements of the offense. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996).

The elements of unarmed robbery are: "(1) a felonious taking of property from another, (2) by force or violence or assault or putting in fear, and (3) being unarmed." *People v Johnson*, 206 Mich App 122, 125-126; 520 NW2d 672 (1994). One who procures, counsels, aids, or abets in the commission of an offense may be convicted and punished as if he committed the offense directly. MCL 767.39; MSA 28.979; *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995). To establish that a defendant aided and abetted a crime, the prosecutor must prove that (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or encouraged or assisted the principal in committing the crime, and (3) the defendant intended the

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

commission of the crime or knew the principal intended its commission at the time he gave aid or encouragement. *Turner, supra* at 568. An aider and abettor's state of mind may be inferred from all the facts and circumstances. *Id.*

Here, the evidence established that the victim exited a dry cleaners and observed two men in a slow-moving truck driven by defendant. When she entered her car, the passenger of the truck ran toward her, opened the door, hit her in the chest, grabbed her purse, and ran back to the truck where defendant was waiting with the motor running. As the victim pursued the passenger to the truck, defendant pushed the door open for the perpetrator. She then told defendant that the passenger snatched her purse, at which point the passenger told defendant "man let's go, I got 'the' purse." The license plate number of the truck, which the victim was able to remember, was registered to defendant. Moreover, the victim identified defendant approximately twenty minutes after the incident when defendant walked into the police station. Although defendant denies any involvement in the robbery, issues of credibility are for the factfinder to resolve. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

Viewing the evidence in a light most favorable to the prosecution, we conclude that there was sufficient evidence to permit a rational trier of fact to find that defendant's companion committed unarmed robbery, that defendant assisted the perpetrator, and that defendant both intended to commit the robbery and knew that the perpetrator intended to steal the purse. Accordingly, we conclude that there was sufficient evidence to find defendant guilty of unarmed robbery beyond a reasonable doubt.

Next, defendant argues that he was denied effective assistance of counsel because his attorney failed to subpoena potential alibi witnesses who could have established that defendant was at a crack house at the time of the robbery. However, because there was no motion for a new trial or no evidentiary hearing on this issue below, appellate review is limited to the record. *People v Maleski*, 220 Mich App 518, 523; 560 NW2d 71 (1996).

To establish ineffective assistance of counsel, the defendant must show that his trial counsel's performance fell below an objective standard of reasonableness and that counsel's representation so prejudiced the defendant as to deprive him of a fair trial. *People v Barclay*, 208 Mich App 670, 672; 528 NW2d 842 (1995). Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving that his counsel's actions were other than sound trial strategy. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). After a thorough review of the record, we conclude that defendant has neither sustained his burden of proving that trial counsel made a serious error that affected the result of the trial nor overcome the presumption that counsel's actions were sound trial strategy. *People v Daniel*, 207 Mich App 47, 58; 523 NW2d 830 (1994); *People v Kelly*, 186 Mich App 524, 526; 465 NW2d 569 (1990).

We affirm.

/s/ David H. Sawyer  
/s/ Richard A. Bandstra  
/s/ Joseph B. Sullivan

