

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ZACHARIA GENTRY,

Defendant-Appellant.

UNPUBLISHED

October 5, 1999

No. 207818

Recorder's Court

LC No. 96-006798

Before: Griffin, P.J., and Zahra and Pavlich*, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of one count of first-degree home invasion, MCL 750.110a; MSA 28.305(a); two counts of armed robbery, MCL 750.529; MSA 28.797; two counts of felonious assault, MCL 750.82; MSA 28.277; and one count of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged in connection with an incident in which two armed intruders entered the home of complainant Jessica Love, restrained and pointed guns at Love and her stepson, and stole various items, including televisions, cash, and a vehicle. The following day, defendant was arrested while driving the vehicle stolen from Love. Love selected defendant out of a lineup and identified him as one of the perpetrators. She indicated that defendant had worn a bandana over his mouth; however, his face from the top of his forehead to the bottom of his nose had been visible. Subsequently, Love saw various items taken from her home in a pawn shop. The items were tagged with the name of defendant's mother. Defendant's brother testified that defendant was at home at the time the incident occurred. Defendant's mother testified that she purchased various items from a narcotics user and later pawned them. Defendant testified that he was at home at the time of the incident and that he purchased the items later pawned by his mother. The trial court found defendant guilty as charged, concluding that Love's identification testimony was credible, and that the testimony given by defendant and his witnesses was contradictory and not credible.

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

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented 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. The trier of fact may make reasonable inferences from evidence in the record but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

On appeal, defendant challenges only the sufficiency of the evidence identifying him as a perpetrator of the offenses. He asserts that Love's identification was insufficient given that the perpetrator's face was partially obscured. We disagree and affirm. Assessment of the credibility of witnesses is a matter for the trier of fact. We will not resolve the issue anew. *Vaughn, supra* at 380. If testimony is conflicting, it is for the trier of fact to decide what weight to give to the testimony given by each witness. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Here, Love made a positive identification of defendant as the perpetrator who wore a bandana. She indicated that while the bandana covered defendant's mouth, the remainder of his face was visible. Defendant presented an alibi witness, his brother, who testified that defendant was at home at the time of the incident. The testimony given by an alibi witness is to be assigned weight relative to its content. Such testimony is not always sufficient to create reasonable doubt if other substantial evidence is presented. *People v Amos*, 10 Mich App 533, 536; 159 NW2d 855 (1968). In this case, the trial court found Love's identification testimony to be credible and concluded that defendant and the witnesses who testified on his behalf were not credible. Viewed in a light most favorable to the prosecution, complainant's testimony constituted sufficient evidence of identification. *Vaughn, supra*; *Marji, supra*.

Affirmed.

/s/ Richard Allen Griffin

/s/ Brian K. Zahra

/s/ Scott L. Pavlich