

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TODD DANYEL BOWMAN,

Defendant-Appellant.

UNPUBLISHED

April 17, 2008

No. 277283

Oakland Circuit Court

LC No. 2006-210698-FC

Before: Kelly, P.J., and Owens and Schuette, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of armed robbery, MCL 750.529. The trial court sentenced defendant to 7 to 40 years in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

This case arises from an incident that occurred at a J.C. Penney store. Loss prevention officers Greg Fleming and Diane Barnes observed defendant place items valued at \$1,130.99 into a bag and leave the store without paying for them. Barnes followed defendant to the parking lot, told him that she was a loss prevention officer, and demanded that he return the items. Defendant reached his vehicle, and as he was attempting to unlock the door, Barnes approached and grabbed at the bag. Defendant dropped the bag and ran across the parking lot, and Barnes pursued him. Defendant put his hand on a satchel he was carrying, told Barnes he had a gun, and said that he would shoot her. Barnes stopped pursuing defendant for a moment because she thought that he might have a gun and she was frightened. Barnes continued to pursue defendant, keeping him in her sight. Eventually, Barnes flagged down a police officer, who pursued and apprehended defendant. Defendant did not have a gun on his person when he was apprehended. Defendant was charged with armed robbery or, in the alternative, retail fraud of property worth \$1,000 or more, MCL 750.356c. The jury found defendant guilty of armed robbery, and the alternative charge of retail fraud was rescinded.

Defendant argues that there was insufficient evidence to support his armed robbery conviction. We disagree. When the sufficiency of the evidence is challenged, we review the evidence in a light most favorable to the prosecutor to determine whether any trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). The standard of review is deferential, and this

Court is required to draw all reasonable inferences and make credibility choices in support of the jury's verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The elements of armed robbery are: “(1) the defendant, in the course of committing a larceny of any money or other property that may be the subject of a larceny, used force or violence against any person who was present or assaulted or put the person in fear, and (2) the defendant, in the course of committing the larceny, either possessed a dangerous weapon, possessed an article used or fashioned in a manner to lead any person present to reasonably believe that the article was a dangerous weapon, or represented orally or otherwise that he or she was in possession of a dangerous weapon.” *People v Chambers*, 277 Mich App 1, 7; 742 NW2d 610 (2007) (footnote omitted); MCL 750.529; MCL 750.530. MCL 750.530(2) provides:

As used in this section, “in the course of committing a larceny” includes acts that occur in an attempt to commit the larceny, or during commission of the larceny, or in flight or attempted flight after the commission of the larceny, or in an attempt to retain possession of the property.

Thus, MCL 750.530 “punishes a defendant for using force or violence, committing an assault, or placing a person in fear during flight or attempted flight after the larceny was committed.” *People v Passage*, 277 Mich App 175, 178; 743 NW2d 746 (2007). As our Supreme Court has emphasized “a larceny is complete when the taking occurs.” *People v Randolph*, 466 Mich 532, 543; 648 NW2d 164 (2002).

Defendant claims that, even considering the evidence in a light most favorable to the prosecution and accepting as true that he told Barnes he had a gun, the evidence did not establish that he did so in the course of flight or attempted flight. Defendant left the store without paying for the items, and Barnes testified that, when she approached him at his vehicle, he dropped the bag and fled. Barnes pursued defendant, and she asserted that he told her he had a gun and would shoot her. Although Barnes continued to pursue him after pausing momentarily, she claimed that she was frightened. Therefore, the evidence, and the reasonable inferences drawn therefrom, established that defendant completed the larceny when he placed the items in the bag, which occurred while he was in the store. Defendant then left the store, dropped the bag, and fled or attempted to flee. Defendant placed Barnes in fear by indicating that he was carrying a weapon during flight after the commission of a larceny. Thus, there was sufficient evidence that established the elements of armed robbery. MCL 750.529; MCL 750.530; *Chambers, supra* at 7. The credibility of the evidence was for the jury to determine; we will not interfere with that determination. *Nowack, supra* at 400.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Donald S. Owens
/s/ Bill Schuette