

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD LEE LEWIS,

Defendant-Appellant.

UNPUBLISHED
February 26, 2009

No. 283091
Berrien Circuit Court
LC No. 2007-402882-FC

Before: Donofrio, P.J., and K. F. Kelly and Beckering, JJ.

PER CURIAM.

Defendant, Ronald Lee Lewis, appeals as of right his jury trial convictions for two counts of armed robbery, MCL 750.529; felon in possession of a firearm, MCL 750.224f; and possession of a firearm during the commission of a felony, MCL 750.227b. Because the issue of defendant's identification was properly submitted to the jury, we affirm.

In defendant's single claim of error on appeal, he argues that his conviction was not supported by sufficient evidence. We review the evidence *de novo*, viewing it in the light most favorable to the prosecution, in order to determine whether any rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 513-514; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). In addition, it is the jury's function alone, when considering the evidence, to determine what weight and credibility to give the evidence. *Id.* at 514-515, quoting *People v Palmer*, 392 Mich 370, 375-376; 220 NW2d 393 (1974). This Court must resolve any conflicts in the evidence in favor of the prosecution. *People v Fletcher*, 260 Mich App 531, 561-562; 679 NW2d 127 (2004). This Court is also "required to draw all reasonable inferences and make credibility choices in support of the jury verdict" when reviewing the sufficiency of the evidence. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Defendant's sole contention with respect to his convictions is that there was insufficient evidence of his identification as the perpetrator of the crimes. Identity is an essential element of any crime. *People v Kern*, 6 Mich App 406, 409-410; 149 NW2d 216 (1967). "The credibility of identification testimony is a matter left solely to the jury who, after listening to all the testimony and viewing the demeanor of the witnesses, chose to disbelieve defendant." *People v Watson*, 52 Mich App 211, 214; 217 NW2d 121 (1974), remanded on other grounds 396 Mich 870 (1976).

We conclude that there was sufficient evidence presented to enable a rational trier of fact to find, beyond a reasonable doubt, that defendant was the person who robbed the victims at gun point. *Wolfe, supra* at 513-514. Viewing the evidence in the light most favorable to the prosecution, the record reflects that both victims identified defendant at trial, they were positive of their identifications, and they had ample opportunity to view defendant during the course of events that night. *Id.* The victims indicated that defendant was the individual they saw earlier in the night while at a social gathering at a friend's house. Defendant approached the gathering and propositioned the victims to shoot dice with him in an alley, but they declined, despite his persistence. The owner of the house where the social gathering took place corroborated the victims' testimony; she identified defendant as the individual who approached her house that night and had a conflict. The robbery occurred later that night at another house. The victims positively identified defendant as the person who entered that house and robbed them at gunpoint. Their testimony was further corroborated by another occupant of the house, although he could not identify defendant at trial. Although defendant argues several facts, claiming they diminished the credibility of the identification testimony, determining witness credibility is a matter that lies solely within the jury's role, and we defer to the jury's determination. *Wolfe, supra* at 514-515; *Watson, supra* at 214.

We affirm.

/s/ Pat M. Donofrio
/s/ Kirsten Frank Kelly
/s/ Jane M. Beckering