STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

QUINTIN LAMAR WILSON,

Defendant-Appellant.

UNPUBLISHED
October 28, 2010

No. 292724
Wayne Circuit Court
LC No. 08-015171

Before: OWENS, P.J., and WHITBECK and FORT HOOD, JJ.

PER CURIAM.

Defendant appeals by right his bench trial convictions of two counts of bank robbery, MCL 750.531, four counts of unlawful imprisonment, MCL 750.349b, four counts of felonious assault, MCL 750.82, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant as a fourth habitual offender, MCL 769.12, to concurrent terms of 15 to 30 years' imprisonment for each of the bank robbery and unlawful imprisonment convictions, four to 15 years' imprisonment for each of the felonious assault convictions, and five years' imprisonment for the felon-in-possession conviction, to run consecutive to two years' imprisonment for the felony-firearm conviction. We affirm in part and vacate in part.

Defendant argues that the evidence was insufficient (1) to convict him of two counts of bank robbery and (2) to prove that he perpetrated the crimes. We agree with defendant's first contention, but disagree with the second.

In reviewing a challenge to the sufficiency of the evidence, we review the record and determine whether the evidence presented at trial, when viewed in the light most favorable to the prosecution, would be sufficient to justify a rational trier of fact in finding the defendant guilty beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999).

Defendant first argues that only one robbery conviction may result where, as here, the perpetrators robbed a single bank. In *People v Shipe*, 190 Mich App 629; 476 NW2d 490 (1991), the defendant challenged his two bank robbery convictions as a violation of the constitutional protection against double jeopardy. In that case, although the defendant took money from multiple bank tellers, this Court vacated one of his two convictions because he robbed only one banking institution. *Id*. at 634. This Court quoted the language of the bank

robbery statute, MCL 750.531, which makes it a felony to put any person in fear "for the purpose of stealing from any building, bank, safe, vault or other depository of money, bonds, or other valuables." *Id.* at 631-632. This Court held that "a defendant cannot be convicted of more than one bank robbery offense for taking money from multiple tellers during one robbery of a single bank." *Id.* at 634.

In contrast to our statute prohibiting armed robbery, which has as its aim the protection of individuals, our bank robbery statute focuses on the protection of property. *People v Ford*, 262 Mich App 443, 451-452; 687 NW2d 119 (2004). In an armed robbery, the "unit of prosecution" is the individual assaulted and robbed. *Id.* at 456. In a bank, safe, or vault robbery, however, the "unit of prosecution" is the bank, safe, or vault robbed. *Id.*

Here, it is undisputed that only one bank was robbed. The fact that multiple individuals were placed in fear is insufficient by itself to support two bank robbery convictions. Because the unit of prosecution for bank robbery is the bank, vault, or safe, the evidence here was sufficient to support only one of defendant's bank robbery convictions. See *Ford*, 262 Mich App at 456. Therefore, we vacate one of defendant's bank robbery convictions.

Defendant also argues that the evidence was insufficient to establish beyond a reasonable doubt that he perpetrated the offenses. Identity of the defendant as the person who committed the alleged offense is an essential element in every criminal prosecution. *People v Yost*, 278 Mich App 341, 356; 749 NW2d 753 (2008). Identity may be proven by direct or circumstantial evidence which gives the trier of fact "an abiding conviction to a moral certainty that the accused was the perpetrator of the offense." *People v Kern*, 6 Mich App 406, 409-410; 149 NW2d 216 (1967). Reasonable inferences arising from circumstantial evidence can provide sufficient proof for conviction. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999).

Here, the prosecution presented an abundance of circumstantial evidence connecting defendant to the robbery. In particular, the bank surveillance video revealed that the black shorts and shoes defendant was wearing when he was arrested matched those that one of the perpetrators wore during the robbery. The shoes were a distinctive Prada make, not ordinary shoes. Further, a police officer spotted a black SUV speeding near the bank moments after the robbery. Officers found several items in and around the SUV connecting the occupants of that vehicle, who had by then fled on foot, to the robbery. These items included two guns, money, and clothing, much of which was stained with red dye. Moreover, a tracking dog traced the path of the SUV's former occupants across Telegraph Road directly to the location where officers were arresting defendant and codefendant, Keith Garrett. Along that very path, officers recovered a black hooded sweatshirt matching the sweatshirt that one of the perpetrators wore during the robbery. Officers on the scene had responded to a citizen's 9-1-1 call made shortly after the robbery, in which the caller explained that he saw defendant and Garrett running across Telegraph Road just blocks away from the bank. When arrested, defendant and Garrett were breathing heavily, as if they had been running.

Taken as a whole, the trial court found this evidence sufficient beyond a reasonable doubt to identify defendant as one of the perpetrators. "It is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences." *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158

(2002). Viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could conclude beyond a reasonable doubt that defendant was one of the perpetrators.

Affirmed in part and vacated in part.

s/ Donald S. Owens
/s/ William C. Whitbeck
/s/ Karen M. Fort Hood