

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

ANDRE MAURICE DILLARD,

Defendant-Appellant.

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UNPUBLISHED

March 10, 2011

No. 296132

Wayne Circuit Court

LC No. 07-006358-FC

Before: MURPHY, C.J., AND STEPHENS AND M. J. KELLY, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of assault with intent rob while armed, MCL 750.89. Defendant was sentenced to 10 to 20 years' imprisonment. Defendant appeals as of right. We affirm.

Defendant's sole issue on appeal is that there was insufficient evidence to establish his specific intent to rob and steal. We disagree.

To determine if there is sufficient evidence to sustain a conviction, this Court must review the evidence in the light most favorable to the prosecution and determine whether a rational trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt. *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001). When assessing a challenge to the sufficiency of the evidence, the trier of fact, not the appellate court, determines what inferences may be fairly drawn from the evidence and the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

"The elements of assault with intent to rob while armed are: (1) an assault with force and violence; (2) an intent to rob or steal; and (3) the defendant's being armed." *People v Akins*, 259 Mich App 545, 554; 675 NW2d 863 (2003) (quoting *People v Cotton*, 191 Mich App 377, 391; 478 NW2d 681 [1991]); MCL 750.89. The offense requires proof of specific intent. *Id.* "Intent . . . can be inferred from one's actions." *People v Gould*, 225 Mich App 79, 87; 570 NW2d 140 (1997).

Defendant's sole contention on appeal is that the prosecution did not establish his intent to rob or steal, an element of assault with intent to rob while armed. Defendant claims that the jury's conclusion that he had a specific intent to rob or steal was completely unsupported by the

evidence. Defendant appears to rely on the premise that direct, unambiguous evidence is required for every element of the crime. On the contrary, circumstantial evidence and reasonable inferences that arise from such evidence may constitute satisfactory proof of the elements of the crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999). “Because of the difficulty of proving an actor’s state of mind, minimal circumstantial evidence is sufficient.” *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). Given the amount of evidence supporting a reasonable inference that defendant intended to rob, his claim is without merit.

The jury heard testimony that defendant pointed an item that appeared to be a weapon at an undercover Romulus police officer and ordered him out of a vehicle while threatening his life. This occurred immediately after defendant had been asked to pay \$6,500 for a quantity of marijuana.

Despite other possible reasons for why defendant demanded that the officer get out of the car, the jury made a reasonable inference that his threat evidenced an intent to steal, and that inference is sufficient to establish that element of the crime. Defendant’s brief proposes no alternate explanations for his intent in making the threat, but even if it did, it would not overcome the jury’s reasonable interpretation of defendant’s intent. “Even in a case relying on circumstantial evidence, the prosecution need not negate every reasonable theory consistent with the defendant’s innocence, but [need] merely introduce evidence sufficient to convince a reasonable jury in the face of whatever contradictory evidence the defendant may provide.” *People v Konrad*, 449 Mich 263, 273 n 6; 536 NW2d 517 (1995). Because it is the trier of the fact’s role to examine the evidence and make inferences based on that evidence, this Court must not overrule defendant’s conviction. “Once having found that the jury could reasonably draw the inferences that it did, and that the evidence, considered with those inferences, was sufficient to establish defendant’s guilt beyond a reasonable doubt, the review of the appellate court is complete.” *Hardiman*, 466 Mich at 430-431.

Affirmed.

/s/ William B. Murphy  
/s/ Cynthia Diane Stephens  
/s/ Michael J. Kelly