

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARTEZ CEDRICK WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

June 16, 2011

No. 294561

Oakland Circuit Court

LC No. 2009-225795-FC

Before: FORT HOOD, P.J., and DONOFRIO and RONAYNE KRAUSE, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, conspiracy to commit armed robbery, MCL 750.157a, assault with intent to commit murder, MCL 750.83, third-degree fleeing or eluding a police officer, MCL 750.479a(3), receiving or concealing a stolen motor vehicle, MCL 750.535(7), possession of marijuana, MCL 333.7403(2)(d), and driving with a suspended license, MCL 257.904(1). He was sentenced to concurrent prison terms of 15 months to 40 years each for the conspiracy, armed robbery, and assault convictions, and two to five years each for the receiving a stolen vehicle and fleeing or eluding convictions. He also received concurrent jail terms of 90 days each for the possession of marijuana and driving with a suspended license convictions. He appeals as of right. We affirm.

Defendant's convictions arise from his participation in the armed robbery and assault of the victim in a hotel parking lot. The prosecutor's theory was that defendant conspired to commit armed robbery, and aided and abetted his friends, codefendants Deangelo Anthony and Gary Tolbert, in committing the robbery and assault crimes primarily by driving the stolen minivan used during the criminal episode. In a statement to the police, defendant admitted knowing that his associates wanted to commit a "carjacking robbery," and that they were armed with weapons when they exited the minivan. Defendant's theory at trial was that defendant was merely present, had no knowledge of an intended robbery, carjacking, or assault, and remained at the scene only because he did not want to leave his friends. On appeal, defendant argues that there was insufficient evidence to support his armed robbery and assault convictions under an aiding and abetting theory, and insufficient evidence to support the conspiracy conviction because he did not specifically agree to commit an armed robbery. We disagree.

Whether sufficient evidence was presented at trial to support a conviction, this Court must view the evidence 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. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Circumstantial evidence and reasonable inferences arising from the evidence can constitute satisfactory proof of the elements of the crime. *People v Truong (After Remand)*, 218 Mich App 325, 337; 553 NW2d 692 (1996). “[A] reviewing 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) an assault, and (2) a felonious taking of property from the victim’s presence or person, (3) while the defendant is armed with a dangerous weapon or with an article used or fashioned in such a way as to lead a reasonable person to believe that it is a dangerous weapon. *People v Ford*, 262 Mich App 443, 458; 687 NW2d 119 (2004); MCL 750.529. To sustain a conviction for assault with intent to commit murder, the prosecution must establish beyond a reasonable doubt that the defendant committed “(1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder.” *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); see also MCL 750.83.

A person who aids or abets the commission of a crime may be convicted and punished as if he directly committed the offense. MCL 767.39. “To support a finding that a defendant aided and abetted a crime, the prosecution must show that (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) the defendant [either] intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement[,]” *People v Izarraras-Placante*, 246 Mich App 490, 496-497; 633 NW2d 18 (2001), “or, alternatively, that the charged offense was a natural and probable consequence of the commission of the intended offense,” *People v Robinson*, 475 Mich 1, 15; 715 NW2d 44 (2006). “Aiding and abetting” describes all forms of assistance rendered to the perpetrator of a crime and comprehends all words or deeds that might support, encourage, or incite the commission of a crime. *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999); *People v Rockwell*, 188 Mich App 405, 411-412; 470 NW2d 673 (1991). “The quantum of aid or advice is immaterial as long as it had the effect of inducing the crime.” *People v Lawton*, 196 Mich App 341, 352; 492 NW2d 810 (1992). An aider or abettor’s state of mind may be inferred from all the facts and circumstances, including a close association between the defendant and the principal, and the defendant’s participation in the planning or execution of the crime. *Carines*, 460 Mich at 757.

Viewed in a light most favorable to the prosecution, the evidence was sufficient to show, first, that codefendants Anthony and Tolbert committed the crime of armed robbery by attacking the victim with handguns as they took money from her pockets. Further, there was sufficient evidence that Tolbert assaulted the victim, intending to commit murder, by shooting her in the abdomen with a semiautomatic firearm. Second, there was sufficient evidence that defendant assisted Anthony and Tolbert in the commission of the crimes by (1) parking the stolen minivan in a manner that blocked the victim’s minivan and staying in that position as his associates fought the victim, hit her in the head with guns, went through her pockets, and stole her money, (2) acting as a lookout for the co-defendant, (3) warning his co-defendants that the victim had garnered Anthony’s gun, (4) urging his associates to “hurry up, hurry up,” and (5) by being the proverbial “get away” driver.

Third, the evidence was sufficient to show that defendant knew and intended for Anthony and Tolbert to commit a robbery, and the evidence that defendant admitted that he knew his codefendants were armed with guns when they exited the stolen minivan to rob someone, and that he did nothing as the victim was beaten and shot, indicates that defendant was aware that the firearms might be used to carry out the robbery, and thus an assault with intent to commit murder was a natural and probable consequence of the commission of the intended offense. Further, the evidence that defendant drove to the hotel with the armed codefendants in the stolen van, discussed committing a crime, searched the parking lot after 2:00 a.m., acted in concert with the codefendants when he parked the stolen van behind the victim's van as the codefendants confronted and attacked the victim, left only after his codefendants were safely back inside the van after robbing and shooting the victim, and thereafter led the police on a high-speed chase, considered together, was sufficient to support a finding that defendant knew and intended for the codefendants to commit the charged crimes or that the charged crimes were a natural and probable consequence of the intended offense. Accordingly, the evidence was sufficient to support defendant's convictions of assault with intent to commit murder and armed robbery under an aiding and abetting theory.

Further, this evidence established a basis for the jury to infer that defendant conspired with the codefendants to commit armed robbery. Conspiracy is a specific intent crime, requiring the intent to combine with others and the intent to accomplish an illegal objective. MCL 750.157a; *People v Mass*, 464 Mich 615, 629; 628 NW2d 540 (2001). To prove the intent to combine with others, it must be shown that the intent, including knowledge, was possessed by more than one person. *People v Blume*, 443 Mich 476, 482, 485; 505 NW2d 843 (1993). For intent to exist, the defendant must know of the conspiracy, know of the objective of the conspiracy, and intend to participate cooperatively to further that objective. *Id.*

Defendant's and the codefendants' interactions and concordant behavior were evidence of their concert of action, which created an inference of conspiracy. Contrary to what defendant argues, direct proof of a conspiracy is not essential. Rather, a conspiracy may be proven by circumstantial evidence or by reasonable inference, and no formal agreement is required. *People v Justice (After Remand)*, 454 Mich 334, 347; 562 NW2d 652 (1997); *People v Cotton*, 191 Mich App 377, 393; 478 NW2d 681 (1991).

Although defendant suggests alternative ways of viewing the evidence, the trier of fact must evaluate the evidence and, for purposes of resolving defendant's sufficiency challenge, we are required to view the evidence in a light most favorable to the prosecution.

Affirmed.

/s/ Karen Fort Hood
/s/ Pat M. Donofrio
/s/ Amy Ronayne Krause