

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
December 15, 2015

v

JACOB LAWRENCE ANDERSON,
Defendant-Appellant.

No. 323764
Jackson Circuit Court
LC No. 13-003846-FC

Before: SAAD, P.J., and STEPHENS and O'BRIEN, JJ.

PER CURIAM.

After a bench trial, defendant was found guilty of armed robbery, MCL 750.529; two counts of possession of a firearm during the commission of a felony, MCL 750.227(b); and assault with a dangerous weapon, MCL 750.82. He was sentenced to 10 to 15 years' imprisonment for the armed robbery conviction, 24 months' imprisonment for each of the felony-firearm convictions, and 23 to 48 months' imprisonment for the felonious assault conviction. For the reasons provided below, we affirm.

In arguing that the evidence was insufficient to support his convictions, he appears to conflate a challenge based on the legal sufficiency of the evidence with a challenge based on the conviction being against the great weight of evidence. As these are two different issues, we will address them separately.

This Court reviews de novo a challenge to the sufficiency of the evidence. *People v Ericksen*, 288 Mich App 192, 195; 793 NW2d 120 (2010). "We examine the evidence in a light most favorable to the prosecution, resolving all evidentiary conflicts in its favor, and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond reasonable doubt." *Id.* at 196. "Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime." *People v Carines*, 460 Mich 750, 757; 597 NW2d 130 (1999) (quotation omitted). "All conflicts in the evidence must be resolved in favor of the prosecution." *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

Defendant's challenge on appeal is limited to the element of identity. "Identity is an element of every offense." *People v Yost*, 278 Mich App 341, 356; 749 NW2d 753 (2008).

At approximately 12:30 a.m. on December 13, 2013, Buddy's, a gas station, was robbed. Tabitha Duncan, the overnight cashier, testified that she gave the robber cash, rolls of coins, the store telephone, a pack of cigarettes, and unopened lottery tickets. The robber put these items in a bag with the words "Country Market" on it. Deputy James Moore and Officer William Mills testified that they tracked footprints in the snow from Buddy's to a house. The footprints left a distinctive pattern in the snow. Mills found coin rolls in the snow near the house. Moore found coin rolls on the front porch of the house. Mills testified that when he looked into a window, he saw defendant sitting in a bedroom scratching off lottery tickets. When the house was searched, defendant was found in a bedroom closet with a blanket covering him. Moore testified that a pair of shoes found in the bedroom still had snow and water on them. The tread of the shoes matched the shoeprints that were followed to the house. Lottery tickets and coin rolls were found on the bed, and a bag with the words "Country Market" on it was also found in the bedroom. Two women, who were staying at the house that night, testified that defendant came home shortly before the police arrived. Detective Thomas Jaakkola watched the security tape from Buddy's and testified that the suspect was wearing a "Gap" sweatshirt. During the second search of the house, a "Gap" sweatshirt matching the one seen on the security tape was found in the bedroom closet. Viewing this evidence in a light most favorable to the prosecution, a rational trier of fact could find beyond a reasonable doubt that defendant was the one who committed the crimes. Accordingly, defendant's convictions are supported by sufficient evidence.

Additionally, the identification of defendant as the one who robbed the gas station was not against the great weight of evidence. A "new trial based upon the weight of the evidence should be granted only where the evidence preponderates heavily against the verdict and a serious miscarriage of justice would otherwise result." *People v Lemmon*, 456 Mich 625, 642; 576 NW2d 129 (1998). Here, the evidence does not clearly preponderate against the conclusion that defendant was the one who robbed the gas station. Tracks in the snow led the police from the gas station straight to defendant, defendant was found with the stolen goods in his possession, other witnesses testified that defendant entered the home just before the police arrived, and clothing similar to what the robber wore was found in the house. The trial court found defendant's claim that "Shawn" had given him the stolen items was not credible. Issues of credibility are for the finder of fact to decide. See *People v Ahumada*, 222 Mich App 612, 617; 564 NW2d 188 (1997). Furthermore, conflicting testimony, even if impeached to some extent, is not a sufficient ground for granting a new trial. *People v McCray*, 245 Mich App 631, 638; 630 NW2d 633 (2001). Therefore, because the evidence inescapably points to defendant as being the perpetrator, the evidence did not heavily preponderate against the verdict.

Affirmed.

/s/ Henry William Saad
/s/ Cynthia Diane Stephens
/s/ Colleen A. O'Brien