MODIFY and AFFIRM; and Opinion Filed January 28, 2016.

In The
Court of Appeals
Fifth District of Texas at Dallas

No. 05-14-00790-CR

KADARRIN WILLIAMS, Appellant
V.
THE STATE OF TEXAS, Appellee

On Appeal from the 363rd Judicial District Court
Dallas County, Texas
Trial Court Cause No. F-1131022-W

MEMORANDUM OPINION

Before Justices Fillmore, Myers, and Whitehill
Opinion by Justice Fillmore

A jury convicted appellant Kadarrin Williams of aggravated robbery, found an enhancement paragraph true, and sentenced him to thirty-eight years' confinement. In a single issue on appeal, Williams contends the evidence is insufficient to support the jury's verdict. We modify the trial court's judgment to reflect Williams pleaded "true" to the first enhancement paragraph as contained in the "Notice of the State's Plea of Enhancement Paragraphs." As modified, we affirm the trial court's judgment.

Factual Background

At trial of the aggravated robbery charge against Williams, the jury heard Tabatha Estrada's testimony that on the morning of March 3, 2011, she was working at the front desk of the La Quinta Inn located at the intersection of Interstate 30 and Highway 161 in Grand Prairie, Texas. Around 7:00 a.m., a man later identified as Williams walked into the La Quinta Inn

lobby and asked Estrada about room rates and availability. Williams appeared to be speaking on a cell phone the entire time he was at the front desk. Estrada thought Williams was in the lobby for a longer period of time than most people coming in to rent a room, but because he was so calm, his "stalling" did not alarm her. About ten minutes after Williams entered the lobby, three other men came through the front door wearing black gloves and bandanas covering their faces. When the three men entered the lobby, Williams backed away from the front counter into the adjacent breakfast area where a hotel guest was located. Meanwhile, Estrada feared for her life when one of the individuals who had entered the lobby pointed a gun within inches of her face. The man asked her where the money was located, and she pointed to a drawer behind the front counter. The man carrying the gun came behind the counter and took the cash—thirty-five to forty dollars—from a drawer. One of the other three men who entered the lobby after Williams also came behind the front counter and looked through drawers. After they had taken the money, the men, including Williams, ran out the front door toward the highway. Estrada testified she believed Williams and the three other men who entered the lobby after him were acting together.

Estrada called 9-1-1 to report the robbery, and a recording of that telephone call was admitted into evidence. In the call, Estrada indicated that she had just been robbed. She stated three African American men walked into the lobby of the La Quinta Inn wearing "hoodies" and black gloves, and that two of the men wore bandanas covering their faces while one of the men wore a black ski mask. Estrada indicated one of the men placed a gun to her head. She explained that Williams, who had been standing at the front desk before the three men entered the lobby, ran out of the lobby with the three men after the robbery. Although she did not see the men scale the fence located at the perimeter of the parking lot, other individuals who arrived at the scene immediately upon the men's departure advised Estrada that the men ran to and jumped over the fence.

Upon their arrival, Estrada provided to the police a more detailed description of what had occurred. She also advised the police that video cameras continuously film the lobby, and the police obtained the videotapes of the robbery. The videotapes of the robbery were admitted into evidence and played for the jury. The videotapes show that at 7:03 a.m., Williams entered the La Quinta Inn lobby wearing a dark-colored jacket, a dark-colored pair of pants, and an Atlanta Braves baseball hat. Williams appeared to be speaking on a cell phone while standing at the front desk. At 7:12 a.m. three other men entered the lobby. Two of the men wore dark jackets with hoodies covering their heads and at least one of those men wore a bandana covering his face. The third man wore a maroon jacket and a ski mask. When the men entered the lobby, Williams backed away from the counter and into the adjacent breakfast area, at which point he ceased speaking or appearing to speak on his cell phone. One of the men wearing a dark jacket with a hoodie pointed a gun at Estrada, entered the area behind the front counter, and opened a drawer. The man with the gun then exited the area behind the counter and moved toward the breakfast area where Williams had a hotel guest, later identified as Michael Schroeder, on the floor. The man wearing the maroon jacket and ski mask then proceeded to look through drawers behind the front counter. At 7:12:55 a.m., Williams and the other three men ran out the front door of the lobby.

Schroeder, a guest at the La Quinta Inn on March 3, 2011, testified that at about 7:00 a.m., while walking outdoors from his room to the hotel front door, he saw three young African American men congregating around a soft drink vending machine. He thought it unusual to see people "loitering" or "standing around" at that hour of the morning. Schroeder proceeded to the breakfast area of the hotel lobby. As he was getting orange juice, he was interrupted when grabbed by his shirt from behind. As he was pulled backward and turned around, he heard the man pulling on him, later identified as Williams, saying, "They want you over there." Williams

pointed toward the lobby, and Schroeder saw two men with masks and a gun. Schroeder thought they were two of the men he had seen earlier at the soft drink vending machine. Williams attempted to pull Schroeder by his shirt, but Schroeder backed himself against a wall. Schroeder then tried to sit in a chair, but lost his balance and fell to the floor. When Williams reached for Schroeder's wallet, Schroeder put his hand over his wallet to stop him. Williams told Schroeder, "If you fight me, I'll kill you." The man with a gun who had been behind the front counter in the lobby ran toward Schroeder to "kind of reinforce what his buddy was saying," and Schroeder said, "I'm not fighting." Schroeder took his hand away from his wallet, and Williams took Schroder's wallet and the cellphone he carried on his belt. Schroeder indicated that the man with the gun then turned away, and all four of the men, including Williams, ran from the lobby together. Schroeder testified he thought Williams had come in with the other three men because of the manner in which they left together.

A recording of a 9-1-1 telephone call placed by Kayla Minton, another guest at the La Quinta Inn on March 3, 2011, was admitted into evidence. Minton described walking into the hotel lobby and observing a robbery taking place, at which point she turned and ran from the lobby. She stated four African American males were involved in the robbery and that one of those men had a red bandana over his face and pointed a gun at her.

John Chapura testified that while driving by the fence at the perimeter of the La Quinta Inn parking lot at about 7:10 a.m. on March 3, 2011, he noticed a gold-colored car parked in a concrete ditch. Chapura saw two men who were making their way down the embankment and two men jumping over the fence. The four men made their way toward the gold car. About two miles after entering Interstate 30, Chapura noticed the gold car approaching at a relatively high rate of speed. As the gold car passed his vehicle, Chapura noted there were four people in that car, and he observed what appeared to be two cell phones and papers being thrown from the car.

Because he thought it so unusual, Chapura pulled over and placed a 9-1-1 phone call to report what he had seen. In the recording of that telephone call admitted into evidence, Chapura described what he had seen and identified the gold car as an Infiniti with a partial license plate number of CL7.

Wayman Nunn, a patrol officer with the Grand Prairie Police Department, testified that after 7:00 a.m. on March 3, 2011, he received a call regarding a robbery at the La Quinta Inn. Nunn went to the scene and spoke with Schroeder, while another officer who arrived at the scene spoke with Estrada. Crime scene investigators were called to the location to collect any physical evidence, and the detective assigned to investigate the robbery took possession of the videotapes from the hotel lobby video cameras.

Jane Newell testified regarding events that occurred later on the day of March 3, 2011. At approximately 12:30 p.m., Newell went to the Check 'n Go on East Grove Road in Lewisville, Texas. Two African American males entered the store after her. One of the men, later identified as Decoriun Bennett, was wearing a "hoodie" over his head, which seemed unusual to Newell because it was a warm day. Bennett looked down so that the "hoodie" almost covered his face; he had his hands in his pockets, but Newell could see he was wearing gloves that were visible over his wrists. The second man, later identified as Williams, wore a hat and a heavy sweatshirt-like jacket. Newell described another man outside the store pacing back and forth and who may have been listening to something or talking on a phone. It appeared to Newell that Williams, Bennett, and the man outside were together. To Newell, it seemed the man outside was "surveying" to be certain no one else would enter the store and interrupt the men inside. That, too, made Newell uncomfortable. The individual outside the store was dressed in heavy clothing and a "hoodie" which seemed inappropriate for the warm weather. Newell suspected these men might intend to rob the Check 'n Go.

After entering the store, Williams and Bennett sat down; Bennett then stood and paced back and forth behind Newell, who was at the counter. Newell could see the men behind her in a television monitor above the counter, and Newell continued to observe the men on the monitor because she felt very uncomfortable. The store clerk, later identified as Miranda Germany, asked if the men needed assistance, and one of the men said they were waiting for their mother who had gone to get lunch at a nearby restaurant. Newell testified the men were "not clear on what they wanted," which made her even more suspicious. One of the men seemed impatient, as if waiting for Newell to leave. Although Germany appeared very composed, Newell thought Germany was also uncomfortable, seemingly taking an extended amount of time to complete Newell's transaction. Germany offered one of the men a form to complete, and she advised the men that since the store's electronic system was operating slowly, she might be able to get their transaction started while finishing Newell's transaction. Newell decided to wait and not rush Germany. It occurred to her that Germany might have pressed a silent alarm to summon help. When Newell's transaction was completed, she did not want to leave Germany alone in the store with the men, but Germany told Newell she was "good to go." Newell did not want to make the men suspicious by not leaving the store at that point, and she decided to go outside and seek help for Germany. Newell got into her car and drove away; as she was preparing to phone the police, she saw a police car driving into the store parking lot. At that point, Newell returned to the store to provide information to the police.

Officer Chang Chi of the Lewisville Police Department testified that at approximately 12:41 p.m. on March 3, 2011, he heard a radio call concerning a "holdup alarm" at the Check 'n Go. According to Chi, a "holdup alarm" is a business alarm that signals an alarm company which, in turn, signals the police department that immediate assistance is needed at the business location. Chi responded to the radio call by proceeding to the Check 'n Go location. When

Lewisville police officer Robert Lee arrived at the scene, Chi arranged for the police Dispatch Communications Department to phone the Check 'n Go and ask Germany, who answered the phone call, to come outside to meet with the police officers. Germany relayed a message through the Dispatch Communications Department to Chi and Lee that she could not come outside as requested. Chi and Lee then walked to the Check 'n Go front door with caution, and as Chi and Lee reached the store's front door, Germany came out and met with them. She advised the officers there were two suspicious men inside and she was concerned about them. While speaking with Germany, Bennett exited the store, and Lee detained him. Chi went inside and met with Williams. Lewisville police officer Michael Skloss arrived at the scene, and he joined Lee in questioning Bennett. Five to ten minutes later, Chi noted Bennett running away from Lee and Skloss. Chi pursued Bennett on foot and radioed Bennett's location as the foot chase continued. Officer Gardner of the Lewisville Police Department arrived on the scene and apprehended Bennett.

According to Lee's testimony, he detained Bennett when Bennett came out of the Check 'n Go, and Chi and Skloss went inside the store to speak with Williams. Lee described Bennett as dressed completely in black, with a black "Beanie cap" and black gloves. Lee thought Bennett's attire was too warm for the weather conditions that day. Bennett told Lee he was waiting on his friend's mother to cash a check. Lee asked Bennett whether he or Williams "had the gun," but Bennett did not answer. Lee pulled his weapon and told Bennett to raise his hands. When Skloss raised Bennett's hands from behind, a .32 caliber Smith & Wesson revolver loaded with two rounds of ammunition fell from Bennett's sleeve. Bennett ran away, and Lee chased him on foot for a short distance. Skloss remained at the Check 'n Go with Williams. Lee then returned to the Check 'n Go, retrieved the revolver Bennett had dropped, and began pursuing Bennett in his squad car. Gardner was able to detain Bennett at gun point, and Chi handcuffed

Bennett. Lee transported Bennett to jail, and Bennett's clothing was placed in the property department.

Skloss testified that when he arrived at the Check 'n Go, Chi was inside talking to Williams, and Lee was outside talking to Bennett. After assuring Chi was alright inside, Skloss returned outside. Bennett's story as to what he and Williams were doing at the Check 'n Go changed during questioning. Lee asked Bennett three times whether he or Williams "had the gun." The third time he was asked, Bennett responded that he had the gun. Skloss was bringing Bennett's hands behind his back to handcuff him when a gun fell to the ground from under Bennett's arm. Bennett then fled on foot, and Chi pursued him. Skloss opened the door to the store, ordered Williams to the ground, and placed him in handcuffs. Williams was not carrying a weapon. After moving Williams to his squad car, Skloss spoke with Germany, who provided him two Western Union wire transfer applications containing written information supplied by Williams and Bennett. Skloss took statements from Germany, Germany's husband who had arrived at the scene, and Newell. Williams was then taken to the Lewisville police station where he spoke with Detective Anders. Skloss identified Bennett and Williams from photographs introduced into evidence. Skloss testified that on March 3, 2011, Williams was wearing a hat but was not wearing gloves.

Lewisville police officer Craig Holleman testified he was on patrol on March 3, 2011, when he heard Chi's radio transmission regarding his foot pursuit of Bennett. Chi continued to update his location by radio while chasing Bennett. Holleman pulled into a gas station near the location where Gardner was placing Bennett on the ground at gunpoint. As Holleman was exiting his squad car, a citizen at the gas station yelled to Holleman that he thought "this gold car over here" is involved in this incident, and the citizen pointed to a gold car at a stop light. Holleman got into his squad car and stopped the gold Infiniti with license plate number

CL7C060. Lewisville police officer Carlos Ortiz assisted as back up in the stop of the gold Infiniti. The driver, who identified himself as Ernesto Jennings, was the only person in the gold Infiniti. Jennings was carrying no identification, and the gold Infiniti displayed no inspection sticker. The gold Infiniti was impounded; when searched, no weapon was found in that vehicle. When Jennings was searched, a black ski mask and gloves fell to the ground from the front crotch area of his pants.[1] Jennings initially denied having any knowledge of Bennett, stating he was in the area for the purpose of filling out a job application at a Wal-Mart store. Jennings later acknowledged he had driven a male by the name of Corey Bennett to the Check 'n Go. Jennings appeared very nervous. Holleman drove Jennings to the Check 'n Go, where he was identified by a witness as one of the men seen in the store parking lot. The video recording from Chi's squad car was reviewed, and Jennings was seen walking past the front of Chi's vehicle and to the side parking area of the shopping center.

Tracy Hinson, a detective in the Major Crimes Unit of the Grand Prairie Police Department testified he was assigned the La Quinta Inn robbery case on March 3, 2011. Hinson visited the crime scene and viewed the videotapes of the robbery, paying particular attention to the clothing worn by the men depicted on the videotapes for purposes of identifying those individuals. In his experience, there is sometimes an individual who surveils or "scopes out" a scene or acts as a lookout in aggravated robbery cases. Based on his experience, Hinson believed the videotapes demonstrate Williams was a participant in the La Quinta Inn robbery because, when the three men entered the lobby, Williams backed away from the front counter and went to the adjacent breakfast area where Schroeder was located and, as soon as the other suspects ran out of the lobby, Williams ran right behind them.

[1] At trial, Ortiz identified the ski mask and gloves found when searching Jennings.

In his investigation on March 3, 2011, Hinson reviewed recorded 9-1-1 calls received from the area of the La Quinta Inn that could be associated with the robbery. He located the recorded 9-1-1 call from Chapura and then telephoned Chapura. Chapura described several African American males who appeared to have climbed the fence near the La Quinta Inn and ran toward a gold Infiniti with a partial license plate number of CL7. Chapura also described the back bumper of that vehicle as hanging loose and appearing to be about to fall from the vehicle. Hinson sent an information bulletin to area police departments describing clothing worn by the four suspects and the vehicle Chapura described. Hinson received a phone call from the Lewisville Police Department that three subjects matching the description Hinson provided had been detained following the incident at the Check 'n Go. The suspects' clothing had been placed in property bags by the Lewisville police. Photographs of clothing worn by Williams, Jennings, and Bennett were admitted into evidence. Hinson identified jeans worn by Jennings and a red bandana found in Jennings's possession that matched items worn by one of the robbers at the La Quinta Inn. Hinson also testified regarding the photographs of Williams's clothing: a white t-shirt, Atlanta Braves baseball cap, and Air Jordan jacket with lettering on the back, all items matching clothing worn by Williams at the La Quinta Inn. Hinson also took photographs of the gold Infiniti impounded by the Lewisville Police Department, and photographs of that vehicle were admitted into evidence. The photographs show a damaged rear bumper as described by Chapura, plus a license plate containing the partial license plate letters and number Chapura provided. After inspecting the clothing and the gold Infiniti in Lewisville, Hinson returned to the Grand Prairie Police Department and prepared his case against Williams for the aggravated robbery of Estrada at the La Quinta Inn.

Procedural Background

A jury convicted Williams of aggravated robbery and assessed punishment of thirty-eight years' confinement.[2] Williams's motion for new trial was overruled by operation of law.

Sufficiency of the Evidence

In a single issue, Williams contends the evidence is insufficient to establish that individually or as a party, he committed the offense of aggravated robbery because there is no evidence he "used or exhibited" a deadly weapon and the evidence is insufficient to establish he knew a deadly weapon would be used or exhibited during the robbery.

Standard of Review

We review the sufficiency of the evidence under the standard set out in *Jackson v. Virginia*, 443 U.S. 307 (1979). *Matlock v. State*, 392 S.W.3d 662, 667 (Tex. Crim. App. 2013). We examine all the evidence in the light most favorable to the verdict and determine whether any rational trier of fact could have found the essential elements of the offense beyond a reasonable doubt. *Jackson*, 443 U.S. at 319; *Matlock*, 392 S.W.3d at 667. This standard recognizes "the responsibility of the trier of fact fairly to resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts." *Jackson*, 443 U.S. at 319; *see also Adames v. state*, 353 S.W.3d 854, 860 (Tex. Crim. App. 2011). As the fact finder, the jury is entitled to judge the credibility of the witnesses, and can choose to believe all, some, or none of the testimony presented by the parties. *Chambers v. State*, 805 S.W.2d 459, 461 (Tex. Crim. App. 1991); *see also Wise v. State*, 364 S.W.3d 900, 903 (Tex. Crim. App. 2012) ("The factfinder exclusively determines the weight and credibility of the evidence.").

We defer to the jury's determinations of credibility, and may not substitute our judgment for that of the jury. *Jackson*, 443 U.S. at 319; *Thornton v. State*, 425 S.W.3d 289, 303 (Tex.

[2] Williams did not testify at trial.

Crim. App. 2014); *King v. State*, 29 S.W.3d 556, 562 (Tex. Crim. App. 2000) (in conducting legal sufficiency analysis, appellate court "may not re-weigh the evidence and substitute our judgment for that of the jury"). When there is conflicting evidence, we must presume the factfinder resolved the conflict in favor of the verdict, and defer to that resolution. *Jackson*, 443 U.S. at 326; *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007). Circumstantial evidence is as probative as direct evidence and, alone, can be sufficient to establish guilt. *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007). Evidence is sufficient if "the inferences necessary to establish guilt are reasonable based upon the cumulative force of all the evidence when considered in the light most favorable to the verdict." *Wise*, 364 S.W.3d at 903.

Applicable Law

A person commits robbery if, in the course of committing theft and with intent to obtain or maintain control of the property, he intentionally or knowingly threatens or places another in fear of imminent bodily injury or death. TEX. PENAL CODE ANN. § 29.02(a)(2) (West 2011). A person commits theft if he unlawfully appropriates property with intent to deprive the owner of it. *Id*. § 31.03(a) (West Supp. 2014). Appropriation is unlawful if it is without the owner's effective consent. *Id*. § 31.03(b)(1).

A person commits aggravated robbery if he uses or exhibits a deadly weapon during the commission of a robbery. *Id*. § 29.03(a)(2) (West 2011). The penal code defines a "deadly weapon" as "anything that in the manner of its use or intended use is capable of causing death or serious bodily injury." *Id*. § 1.07(a)(17)(B) (West Supp. 2014). A firearm is per se a deadly weapon. *Id*. § 1.07(a)(17)(A) (West 2011). "Use" of a deadly weapon during the commission of the offense means the deadly weapon "was employed or utilized in order to achieve its purpose." *Rollerson v. State*, 196 S.W.3d 803, 808 (Tex. App.—Texarkana 2006), *aff'd*, 227 S.W.3d 718 (Tex. Crim. App. 2007). To "exhibit" a deadly weapon means the weapon was "consciously

shown or displayed during the commission of the offense." *Id*. (citing *Patterson v. State*, 769 S.W.2d 938, 941 (Tex. Crim. App. 1989)).[3]

In this case, the jury was charged that Williams could be found guilty of aggravated robbery as a principal or as a party to the offense. *See* TEX. PENAL CODE ANN. § 7.01(a) (West 2011); *see also Sorto v. State*, 173 S.W.3d 469, 472 (Tex. Crim. App. 2005) (where trial court's charge authorized jury to convict on alternative theories, verdict of guilt will be upheld if evidence was sufficient on any one of the theories). A person is responsible for the criminal conduct of another person if "acting with intent to promote or assist the commission of the offense, he solicits, encourages, directs, aids, or attempts to aid the other person to commit the offense." TEX. PENAL CODE ANN. § 7.02(a)(2) (West 2011). When a party is not a "primary actor," the State must prove conduct constituting an offense plus an act by the defendant done with the intent to promote or assist such conduct. *Beier v. State*, 687 S.W.2d 2, 3 (Tex. Crim. App. 1985). The jury may consider "events occurring before, during and after the commission of the offense, and may rely on actions of the defendant which show an understanding and common design to do the prohibited act." *Ransom v. State*, 920 S.W.2d 288, 302 (Tex. Crim. App. 1996).[4] "Since an agreement between parties to act together in a common design can seldom be proved by words, the State often must rely on the actions of the parties, shown by direct or circumstantial evidence, to establish an understanding or common design to commit the offense." *Miller v. State*, 83 S.W.3d 308, 314 (Tex. App.—Austin 2002, pet. ref'd). Circumstantial evidence may suffice to show the defendant is a party to the offense. *Ransom*, 920 S.W.2d at 302; *Miller*, 83 S.W.3d at 314. Evidence is sufficient to convict under the law of parties where

[3] *Sample v. State*, Nos. 05-10-00658-CR & 05-10-00659-CR, 2011 WL 1329183, at *2 (Tex. App.—Dallas Apr. 7, 2011, no pet.) (not designated for publication) ("To 'use' a deadly weapon during the commission of an offense means that the deadly weapon was employed or utilized in order to achieve its purpose; to 'exhibit' a deadly weapon requires only that it be consciously displayed during the commission of the required felony offense.").

[4] *See also King v. State*, No. 05-01-00162-CR, 2002 WL 1565132, at *2 (Tex. App.—Dallas July 17, 2002) (not designated for publication).

the defendant is physically present at the commission of the offense and encourages its commission by words or other agreement. *Ransom,* 920 S.W.2d at 302. Mere presence of an accused at the scene of an offense is not alone sufficient to support a conviction under penal code section 7.02(a)(2); "however, it is a circumstance tending to prove guilt which, combined with other facts, may suffice to show that the accused was a participant." *Valdez v. State*, 623 S.W.2d 317, 321 (Tex. Crim. App. [Panel Op.] 1981) (op. on reh'g). "[W]hile flight alone will not support a guilty verdict, evidence of flight from the scene of a crime is a circumstance from which an inference of guilt may be drawn." *Id.*

"With respect to party liability for the use or exhibition of a deadly weapon as an element of aggravated robbery, there must be evidence that the defendant not only participated in the robbery before, while, or after a deadly weapon was displayed, but did so while being aware that the deadly weapon would be, was being, or had been used or exhibited during the offense." *Boston v. State*, 373 S.W.3d 832, 839 n.7 (Tex. App.—Austin 2012), *aff'd*, 410 S.W.3d 321 (Tex. Crim. App. 2013).

Discussion

On appeal, Williams argues there is no evidence he used or exhibited a deadly weapon, and the evidence is insufficient to establish he knew a deadly weapon would be used or exhibited, during the robbery at the La Quinta Inn. The State concedes in its brief, and we agree, that the evidence at trial does not establish Williams had personal possession of a deadly weapon during the course of the La Quinta Inn robbery. Williams was, therefore, convicted as a party to the robbery, which included the use or exhibition of a deadly weapon. With regard to Williams's argument the evidence is insufficient to establish he knew a deadly weapon would be used or exhibited during the robbery, he misstates the law controlling our sufficiency review. Our sufficiency review is not limited to evidence Williams knew in *advance* that a deadly weapon

would be used or exhibited during the robbery. As noted above, the pertinent question is whether there is evidence Williams not only participated in the robbery before, while, or after a deadly weapon was displayed, but did so while being aware that the deadly weapon would be, was being, or had been used or exhibited during the offense. *See id.*

The evidence supports an inference Williams entered the La Quinta Inn lobby to survey the scene in advance of the entry of the other three men waiting at the vending machine outside the front door. After the three other men entered the lobby, Williams did not flee the scene or raise his hands in fear or submission. Instead, he turned his back on the man brandishing the gun and taking money from the front counter drawer and proceeded to rob Schroeder of his wallet and cell phone. When Schroeder initially resisted Williams's effort to take his wallet, Williams told Schroeder he would kill him if he tried to fight. In an apparent response to the struggle between Schroeder and Williams, the man holding the gun approached Schroeder and Williams to "kind of reinforce" what "his buddy," Williams, had told Schroeder. When Schroeder stated he was "not fighting," the man with the gun withdrew and left Williams to take Schroeder's wallet and cell phone. After Williams took Schroeder's belongings and the cash had been taken from the front counter drawer, the three men and Williams ran from the lobby together. The circumstantial evidence further demonstrated Williams scaled the fence at the perimeter of the La Quinta Inn parking lot and got into the gold Infiniti with the three other men.

Later that day, Williams, wearing the same clothing he wore in the robbery at the La Quinta Inn, was detained following what appeared to be a planned aggravated robbery of the Check 'n Go in Lewisville. Further, Bennett and Jennings, dressed in clothing matching clothing worn by two of the robbers at the La Quinta Inn, were present at the Check 'n Go with Williams. Bennett, with whom Williams entered the Check 'n Go, was armed with a loaded gun. Jennings

was driving a gold Infiniti matching the description of the vehicle in which the four males were seen leaving the La Quinta Inn following the robbery.

Viewing the direct and circumstantial evidence in the light most favorable to the verdict, we conclude a rational jury could find beyond a reasonable doubt that Williams participated in the robbery before, while, and after a deadly weapon was displayed and was aware that a deadly weapon would be, was being, and had been exhibited during the offense. *See Ransom*, 920 S.W.2d at 302; *Miller*, 83 S.W.3d at 314; *Boston*, 373 S.W.3d at 839 n.7; *Adkins v. State*, 274 S.W.3d 870, 875 (Tex. App.—Fort Worth 2008, no pet.) (when deadly weapon is alleged in indictment of offense, jury is authorized to find defendant guilty as a party only if State meets its burden of proving beyond reasonable doubt defendant knew deadly weapon would be used or exhibited; if jury returns guilty verdict as charged in indictment, we presume jury implicitly found beyond reasonable doubt defendant used or exhibited deadly weapon or, if acting as a party, knew deadly weapon would be used or exhibited).

Modification of Judgment

We may modify a trial court's judgment to correct a clerical error when we have the necessary information before us to do so. TEX. R. APP. P. 43.2(b); *Asberry v. State*, 813 S.W.2d 526, 529–30 (Tex. App.—Dallas 1991, pet. ref'd). The reporter's record reflects Williams pleaded "true" to the enhancement paragraph contained in the "Notice of the State's Plea of Enhancement Paragraphs." The judgment erroneously reflects "N/A" with respect to the first enhancement paragraph. Accordingly, we modify the judgment in Case No. F-1131022-W to reflect that Williams pleaded "true" to the first enhancement paragraph. The judgment is thus modified to read: "Plea to 1st Enhancement Paragraph: True."

Conclusion

As modified, the judgment is affirmed.

/Robert M. Fillmore/
ROBERT M. FILLMORE
JUSTICE

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TEX. R. APP. P. 47.2(b)

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Court of Appeals
Fifth District of Texas at Dallas

JUDGMENT

KADARRIN WILLIAMS, Appellant	On Appeal from the 363rd Judicial District Court, Dallas County, Texas,
No. 05-14-00790-CR V.	Trial Court Cause No. F-1131022-W.
	Opinion delivered by Justice Fillmore,
THE STATE OF TEXAS, Appellee	Justices Myers and Whitehill participating.

Based on the Court's opinion of this date, the judgment of the trial court is **MODIFIED** as follows:

Plea to 1st Enhancement Paragraph: True.

As **MODIFIED**, the judgment is **AFFIRMED**.

Judgment entered this 28th day of January, 2016.