

In The
Court of Appeals
Ninth District of Texas at Beaumont

NO. 09-16-00170-CR

MASON PAUL BUTLER, Appellant

V.

THE STATE OF TEXAS, Appellee

On Appeal from the 163rd District Court
Orange County, Texas
Trial Cause No. B-150,501-R

MEMORANDUM OPINION

A jury convicted appellant Mason Paul Butler of aggravated robbery and assessed punishment at thirty years of confinement. In his sole appellate issue, Butler argues that the evidence was legally insufficient to support his conviction. We affirm the trial court's judgment.

THE EVIDENCE

Tammy Allen, a customer loan specialist at Sun Loan in Orange, Texas, testified that she saw two men running toward the front door and realized that a

robbery was taking place. The men's faces were covered, so Allen was unable to see their faces, but she focused on their eyes, their hands, and the gun. Allen explained that the man with the gun aggressively approached her, threatened her, and told her to give him money. Allen testified that she began to crawl on the floor to open the drawer, and the man reached into the drawer and took the money himself. Allen testified that she felt that she was in danger, and she was glad that the man at the door told the man with the gun to calm down because "it could have been a lot worse." According to Allen, the man also removed money from Allen's manager's desk. Allen testified that she was focused on the man with the gun because although she could not see his face, "the eyes tell a lot of things." Allen testified that she was unable to identify either of the perpetrators.

Kim Reynolds, a former manager of Sun Loan, testified that as she was returning to her desk, she saw two men coming through the door and telling Allen, "Get on the floor or I will shoot you." Reynolds immediately got onto the floor. Reynolds explained that one of the men stood at the door, and the other, who was dressed in dark clothes and had a handkerchief over his face, had a gun. Reynolds testified that she was staring at the floor, so what she remembered most of all was a black Nike shoe with a white Nike swoosh.

Shavondra Simmons testified that she had met Butler on a couple of occasions. According to Simmons, on the date of the robbery, she was at a friend's apartment and she explained that Butler lived there with her friend. According to Simmons, Butler came into her friend's room, began talking, and said that he and two individuals had robbed Sun Loan, but only Butler and one other person had gone into Sun Loan. Simmons testified that Butler told them that he had carried a gun and had told one of the employees to get on the floor.¹ Simmons testified that she had prior convictions for misdemeanor theft, failure to identify, and failure to stop and render aid.

Detective Jason Ashworth of the City of Orange Police Department testified that he and several officers were dispatched to Sun Loan regarding an aggravated robbery. Ashworth took witness statements and eventually reviewed surveillance videos from the interior and exterior of Sun Loan. According to Ashworth, witnesses indicated that two black males had entered Sun Loan, and one of the men stayed beside the front door while the other man approached employees with a handgun and demanded money. Ashworth testified that he obtained a statement from a witness

¹Simmons's friend E.S. testified that Butler gave her a \$20 bill, and he then told her he had "made a lick[]" and "hit Sun Loan." According to E.S., Butler told her that he went in with a gun and demanded money. E.S. testified that her memory comes and goes, and she was in special education in school.

who had seen two individuals running to a vehicle and provided a description of the vehicle.

Ashworth explained that after reviewing the exterior surveillance video, officers observed two individuals whose faces were covered, as well as a third person, who “was not covered at all.” Officers released the video to the public, and a witness came forward and identified the third individual. The third suspect eventually identified Butler and the other suspect, Raymond Young, to the authorities, and the third suspect identified Butler as the person with the gun. Ashworth explained that another officer interviewed Butler and Young.² Butler provided a DNA sample. Officers learned that a fourth individual organized the aggravated robbery and admitted that he did so. Ashworth testified that no black shoes with a white Nike swoosh were recovered, and no gun was recovered.

Raymond Young testified that he and Butler planned to enter Sun Loan and a third individual would serve as lookout. According to Young, he and Butler entered the building, and Butler had a gun. Young testified that he was holding the door while Butler was “the action of it, . . . making them lay down . . . mostly getting the money.” The State rested at the conclusion of Young’s testimony. Butler’s sister

²Detective Teddy Hilyar of the City of Orange Police Department testified that he assisted Ashworth with the investigation.

testified that on the date of the offense, Butler was with her from approximately 10:00 a.m. to 2:00 p.m., and the defense rested at the conclusion of her testimony.

BUTLER'S ISSUE

In his sole appellate issue, Butler challenges the legal sufficiency of the evidence. In reviewing the legal sufficiency of the evidence, we review all the evidence in the light most favorable to the verdict to determine whether any rational fact finder could have found the essential elements of the offense beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319 (1979); *Hooper v. State*, 214 S.W.3d 9, 13 (Tex. Crim. App. 2007). The fact finder is the ultimate authority on the credibility of witnesses and the weight to be given their testimony. *Penagraph v. State*, 623 S.W.2d 341, 343 (Tex. Crim. App. [Panel Op.] 1981). We give full deference to the fact finder's responsibility to fairly resolve conflicts in the testimony, to weigh the evidence, and to draw reasonable inferences from basic facts to ultimate facts. *Hooper*, 214 S.W.3d at 13. If the record contains conflicting inferences, we must presume that the fact finder resolved such facts in favor of the verdict and defer to that resolution. *Brooks v. State*, 323 S.W.3d 893, 899 n.13 (Tex. Crim. App. 2010); *Clayton v. State*, 235 S.W.3d 772, 778 (Tex. Crim. App. 2007). We also “determine whether the necessary inferences are reasonable based upon the combined and cumulative force of all the evidence when viewed in the light most

favorable to the verdict.” *Clayton*, 235 S.W.3d at 778 (quoting *Hooper*, 214 S.W.3d at 16-17).

A person commits aggravated robbery if (1) “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[;]” and (2) “uses or exhibits a deadly weapon[.]” Tex. Penal Code Ann. §§ 29.02(a)(2), 29.03(a)(2) (West 2011). “A firearm is a deadly weapon *per se*.” *Ex parte Huskins*, 176 S.W.3d 818, 820 (Tex. Crim. App. 2005). The jury heard evidence that Butler threatened Sun Loan employees with a gun, placed them in fear of imminent bodily injury or death, demanded money, and took money. In addition, the jury heard evidence from two individuals unconnected with the offense, who testified that, after the offense, Butler told them that he had threatened Sun Loan’s employees with a gun and had robbed Sun Loan. The jury also heard evidence from Butler’s co-actor, Young, regarding the plans for the offense, as well as testimony from Young that he served as lookout while Butler entered the building with a gun, made the employees lie on the floor, and took money.

Viewing the evidence in the light most favorable to the verdict, we conclude that a rational jury could have found the essential elements of the offense beyond a reasonable doubt. *See* Tex. Penal Code Ann. §§ 29.02(a)(2), 29.03(a)(2); *Jackson*,

443 U.S. at 319; *Hooper*, 214 S.W.3d at 13; *Penagraph*, 623 S.W.2d at 343.

Accordingly, we overrule Butler's sole issue and affirm the trial court's judgment.

AFFIRMED.

STEVE McKEITHEN
Chief Justice

Submitted on May 16, 2017
Opinion Delivered June 21, 2017
Do Not Publish

Before McKeithen, C.J., Kreger and Horton, JJ.