

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO MAURICE LACEY,

Defendant-Appellant.

UNPUBLISHED

July 19, 1996

No. 182601

LC No. 94-007299-02

Before: Griffin, P.J., and Bandstra and M. Warshawsky,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, assault with intent to commit murder, MCL 750.83; MSA 28.278, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). We affirm.

Reginald Rome, Robert Lewis, and James Owens were held up at gunpoint by three men wearing bandannas around their faces. Two men ran past Rome and the third told Rome to get down on the ground. Rome complied and he witnessed the two men robbing Lewis and Owens. The two men returned and stood in back of Rome. Directly thereafter, Rome was shot five to six times in his back, buttocks, and legs. Rome did not know who fired the shots. Lewis indicated that directly after he heard the shots, he saw the three men running away from the scene.

On appeal, defendant argues that there was insufficient evidence to convict him of aiding and abetting assault with intent to murder because there was no evidence that defendant knew of the shooter's intent or did anything to aid or encourage the shooting. In an appeal challenging the sufficiency of the evidence presented to sustain 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 have found the essential elements of the offense were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994).

* Circuit judge, sitting on the Court of Appeals by assignment.

The elements necessary for a conviction of aiding and abetting are: (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 intended the commission of the crime or had knowledge that the principal intended to commit the crime. *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995). Factors to consider include a close relationship between the defendant and the principal, the defendant's participation in the planning or execution of the crime, and evidence of flight after the crime. *Id.* at 569. It is true that defendant's mere presence at the crime even with knowledge that the offense is about to be committed is insufficient to render him an aider and abettor. *People v Youngblood*, 165 Mich App 381, 386; 418 NW2d 472 (1988). However, knowing that a codefendant possesses a gun during the commission of a robbery is enough for a rational trier of fact to find that defendant, as an aider and abettor, participated in the crime with knowledge of his cohort's intent to cause great bodily harm. *Turner, supra* at 572-573.

Herein, defendant acted in conjunction with the other two men in pursuit of a common plan to rob Rome, Lewis, and Owens. All three men were armed and all three were behind Rome at the time he was shot. We find that there was sufficient evidence to show that defendant knew that his codefendants possessed guns and that they had the intent to cause great bodily harm or that defendant, who also possessed a weapon, had intent to cause great bodily harm. Therefore, defendant possessed the requisite intent to be convicted of an aider and abettor. The transaction of an armed robbery continues until the assailant has effected his escape. *People v Clark*, 113 Mich App 477, 480; 317 NW2d 664 (1982). Thus, defendant was still participating in the armed robbery when Rome was shot. A rational trier of fact could have concluded that defendant was involved in the assault because he was still involved in the commission of the armed robbery at the time the assault occurred. Moreover, there was evidence that defendant fled from the scene only after Rome was shot. We find that there was sufficient evidence to convict defendant of aiding and abetting assault with intent to murder.

We affirm.

/s/ Richard Allen Griffin
/s/ Richard A. Bandstra
/s/ Meyer Warshawsky