

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
May 17, 2011

v

RAYMOND EUGENE PEA,
Defendant-Appellant.

No. 297592
Ingham Circuit Court
LC No. 09-001152-FC

Before: OWENS, P.J., and O'CONNELL and METER, JJ.

PER CURIAM.

Defendant, Raymond Eugene Pea, was convicted by a jury of two counts of armed robbery, MCL 750.529, but acquitted of possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to concurrent prison terms of 7 to 30 years for each conviction. He appeals as of right. We affirm.

Defendant's sole claim on appeal is that the evidence was insufficient to establish that he was armed, or represented that he was armed during the course of the robbery. We disagree.

In reviewing the sufficiency of the evidence in a criminal case, this Court must review the record de novo and, viewing both direct and circumstantial evidence in a light most favorable to the prosecution, determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). It is for the trier of fact to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

The elements of armed robbery are (1) the defendant was engaged in the course of committing a larceny of any money or other property that may be the subject of a larceny, (2) the defendant used force or violence against any person who was present or assaulted or put the person in fear, and (3) the defendant, in the course of committing the larceny, either possessed a dangerous weapon, possessed an article used or fashioned in a manner to lead any person present to reasonably believe that the article was a dangerous weapon, or represented orally or otherwise

that he or she was in possession of a dangerous weapon. MCL 750.529; MCL 750.530(1); *People v Chambers*, 277 Mich App 1, 7; 742 NW2d 610 (2007).

Both victims testified that defendant and some other men approached them at a party. They both testified that defendant was armed with a gun and pointed it at them while he or one of his friends took their property. Such testimony, if believed, was sufficient to enable a rational juror to conclude beyond a reasonable doubt that defendant possessed a dangerous weapon. Although the witnesses did not agree on the type of gun involved, “conflicts in the evidence must be resolved in favor of the prosecution,” *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004), and this Court “will not resolve credibility issues anew on appeal.” *People v Milstead*, 250 Mich App 391, 404; 648 NW2d 648 (2002). Further, it is immaterial that no gun was ever recovered. Such evidence is not necessary for a conviction. *People v Hayden*, 132 Mich App 273, 296; 348 NW2d 672 (1984).

Contrary to what defendant asserts, the jury’s verdicts were not inherently inconsistent. Armed robbery requires proof that the defendant was armed with a real or feigned “dangerous weapon” while felony-firearm requires proof that the defendant possessed a “firearm.” While a firearm must be “a weapon from which a dangerous projectile may be propelled by an explosive, or by gas or air,” MCL 750.222(d), a dangerous weapon may, but need not, be a gun. The statute only requires that a defendant “be armed with an article which is in fact a dangerous weapon – a gun, knife, bludgeon, etc., or some article harmless in itself, but used or fashioned in a manner to induce the reasonable belief that the article is a dangerous weapon.” *People v Parker*, 417 Mich 556, 565; 339 NW2d 455 (1983). The jury could have rationally found beyond a reasonable doubt that defendant was armed with an object used in a manner to suggest that it was a gun, but may not have had the same level of certainty that the object was in fact a firearm. *People v Vaughn*, 409 Mich 463, 467; 295 NW2d 354 (1980).

Affirmed.

/s/ Donald S. Owens
/s/ Peter D. O’Connell
/s/ Patrick M. Meter