

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
June 12, 2014

v

FRANK ROLAND SINGLETON,  
Defendant-Appellant.

No. 314908  
Wayne Circuit Court  
LC No. 12-009406-FC

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Before: JANSEN, P.J., and MURRAY and BOONSTRA, JJ.

PER CURIAM.

Defendant appeals by right his bench-trial convictions of carjacking, MCL 750.529a, and armed robbery, MCL 750.529,<sup>1</sup> for which he was sentenced to concurrent prison terms of 135 to 250 months. We affirm.

On the day in question, the victim stopped at a gas station to purchase gasoline and cigarettes. While he was there, two men approached him. One of the men pointed a gun at him while the other man, later identified as defendant, searched his pockets and removed his wallet and keys. Defendant and the man with the gun then drove off in the car the victim had been driving.<sup>2</sup> Defendant was later arrested as he fled from the police, who pulled up behind him when they found the vehicle parked eight blocks away.

Defendant argues that the prosecution presented insufficient evidence to sustain his convictions. We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that all elements of the crime were proven beyond a reasonable doubt. *People v Tombs*, 472 Mich 446, 459; 697 NW2d 494 (2005). Minimal circumstantial evidence is sufficient to establish a defendant's state of mind. *People v Unger*, 278 Mich App 210, 223; 749 NW2d 272 (2008).

The elements of armed robbery are:

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<sup>1</sup> Defendant was found not guilty of carrying a concealed weapon, MCL 750.227, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b.

<sup>2</sup> The victim testified the vehicle belonged to his girlfriend.

(1) the defendant, in the course of committing a larceny of any money or other property that may be the subject of a larceny, used force or violence against any person who was present or assaulted or put the person in fear, and (2) 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. [*People v Chambers*, 277 Mich App 1, 7; 742 NW2d 610 (2007).]

The elements of carjacking are:

(1) that the defendant took a motor vehicle from another person, (2) that the defendant did so in the presence of that person, a passenger, or any other person in lawful possession of the motor vehicle, and (3) that the defendant did so either by force or violence, by threat of force or violence, or by putting the other person in fear. [*People v Davenport*, 230 Mich App 577, 579; 583 NW2d 919 (1998).]

Plaintiff argued, and the court considered, whether the evidence established that he had acted as an aider and abettor. To establish aiding and abetting, the following elements must be established:

“(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 its commission at the time that [the defendant] gave aid and encouragement.” [*People v Bennett*, 290 Mich App 465, 472; 802 NW2d 627 (2010) (citation omitted).]

The evidence established that defendant took the victim’s wallet while defendant’s accomplice held the victim at gunpoint. The evidence also established that defendant and his accomplice drove off in the victim’s vehicle. This evidence, and the reasonable inferences arising therefrom, was sufficient to prove the elements of armed robbery and carjacking, and that defendant “performed acts . . . that assisted” in the commission of both crimes. Simply put, the victim’s clear testimony was sufficient to sustain both convictions. Further, while defendant attempted to advance the affirmative defense of duress at trial, the prosecution was not required to disprove every theory that was consistent with defendant’s innocence. *People v Hardiman*, 466 Mich 417, 424; 646 NW2d 158 (2002).

Defendant also argues that the court rendered inconsistent verdicts when it found him guilty of armed robbery, but acquitted him of felony-firearm. The court may not render inconsistent verdicts following a bench trial. *People v Ellis*, 468 Mich 25, 26; 658 NW2d 142 (2003). When the trial court’s findings of fact are inconsistent with the court’s verdict, reversal is warranted. *People v Fairbanks*, 165 Mich App 551, 557; 419 NW2d 13 (1987).

Our Supreme Court addressed the nature of accomplice liability in felony-firearm cases in *People v Moore*, 470 Mich 56, 70-72; 679 NW2d 41 (2004):

The prosecutors must do more than demonstrate that defendants aided the commission or attempted commission of the underlying crimes . . . . Rather, the prosecutors must demonstrate that defendants specifically aided the commission of felony-firearm. Establishing that a defendant has aided and abetted a felony-firearm offense requires proof that a violation of the felony-firearm statute was committed by the defendant or some other person, that the defendant performed acts or gave encouragement that assisted in the commission of the felony-firearm violation, and that the defendant intended the commission of the felony-firearm violation or had knowledge that the principal intended its commission at the time that the defendant gave aid and encouragement. In determining whether a defendant assisted in the commission of the crime, the amount of advice, aid, or encouragement is not material if it had the effect of inducing the commission of the crime. It must be determined on a case-by-case basis whether the defendant “performed acts or gave encouragement that assisted” in the carrying or possession of a firearm during the commission of a felony. [Citations omitted.]

In this case, while the evidence established beyond a reasonable doubt that defendant actively searched the victim’s pockets while the victim was held at gunpoint by his accomplice, there was no evidence that defendant had a gun, that defendant encouraged his accomplice to use a gun, or that defendant was even aware that his accomplice intended to use a gun. Accordingly, the court’s acquittal of defendant on the charge of felony-firearm was not inconsistent with its conviction of defendant on the charge of armed robbery. Despite the lack of evidence to establish that defendant possessed or encouraged the use of a firearm, there was sufficient evidence to establish that, once the victim was being held at gunpoint, defendant actively assisted in the robbery. We perceive no error.

Affirmed.

/s/ Kathleen Jansen  
/s/ Christopher M. Murray  
/s/ Mark T. Boonstra