

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
June 18, 2015

v

DWAYNE ANTHONY CRAGGETTE-SMITH,
Defendant-Appellant.

No. 321683
Oakland Circuit Court
LC No. 2013-246198-FC

Before: METER, P.J., and CAVANAGH and WILDER, JJ.

PER CURIAM.

Defendant appeals as of right his conviction for armed robbery, MCL 750.529. The trial court sentenced him as a third-offense habitual offender, MCL 769.11, to 9 to 40 years' imprisonment. We affirm.

The victim testified as follows: On April 28, 2013, he was working at a house in Southfield, Michigan. He left the house around noon and walked to lunch. He was stopped by a man, later identified as defendant, near a Wendy's restaurant and the "Sweet Asia Cafe." Defendant was wearing a wig, blue jeans and a red sweatshirt, and he had a purse. Defendant asked for a dollar and the victim gave him one. Defendant then said, "I'm sorry, but I think I'm gonna' [sic] rob you, and don't do anything stupid because I don't wanna' [sic] hurt you." Defendant pulled scissors from his purse and pointed them at the victim. Defendant subsequently grabbed approximately \$120 out of the victim's front left pocket and fled the scene.

Defendant's sole contention on appeal is that the prosecution produced insufficient evidence to support his conviction for armed robbery. In determining the sufficiency of the evidence, this Court reviews "whether the evidence, viewed in a light most favorable to the [prosecution], would warrant a reasonable juror in finding guilt beyond a reasonable doubt." *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000).

The elements of armed robbery are "(1) an assault, and (2) a felonious taking of property from the victim's person or presence, while (3) the defendant is armed with a weapon described in the statute." *People v Henry (After Remand)*, 305 Mich App 127, 142-143; 854 NW2d 114 (2014) (citation and quotation marks omitted); see also MCL 750.529. "The offense of assault requires proof that the defendant made either an attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery." *Henry (After Remand)*, 305 Mich App at 143 (citation and quotation marks omitted). Whether a weapon is

dangerous depends on the object and how it is used. *People v Norris*, 236 Mich App 411, 414-415; 600 NW2d 658 (1999). In addition, “it is well settled that identity is an element of every offense.” *People v Yost*, 278 Mich App 341, 356; 749 NW2d 753 (2008).

The victim testified that defendant pointed scissors at him during the course of the robbery and stated that the victim should not do anything “stupid” in order to avoid getting hurt. Shortly after the offense, the police found the scissors on a companion of defendant’s. The victim testified that he thought that he was going to die or that defendant was going to cut his throat. Reasonable jurors could conclude from the evidence that defendant placed the victim in reasonable apprehension of receiving an immediate battery. *Henry (After Remand)*, 305 Mich App at 143. There was also evidence that defendant forcibly took money from the victim’s person. Additionally, the scissors defendant used could be construed as a dangerous weapon because they were pointed at the victim and were accompanied by threatening words. *Norris*, 236 Mich App at 414-415. Further, the victim identified defendant as the person who robbed him. Positive witness identification can be sufficient to support a conviction of a crime. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). It was up to the jury to judge the credibility of the witnesses. *People v Dunigan*, 299 Mich App 579, 582; 831 NW2d 243 (2013). In particular, “[t]he credibility of identification testimony is a question for the trier of fact that we do not resolve anew.” *Davis*, 241 Mich App at 700. Viewing the evidence in the light most favorable to the prosecution, there was sufficient evidence to support defendant’s conviction of armed robbery.

Affirmed.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Kurtis T. Wilder