

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SANTIAGO ELIAS HANKINSON,

Defendant-Appellant.

UNPUBLISHED

June 18, 2013

No. 311473

Ingham Circuit Court

LC No. 11-000778-FC

Before: OWENS, P.J., and GLEICHER and STEPHENS, JJ.

PER CURIAM.

Defendant was convicted following a jury trial of armed robbery, MCL 750.529, conspiracy to commit armed robbery, MCL 750.157a, MCL 750.529, carrying a concealed weapon, MCL 750.227, assault with a dangerous weapon (felonious assault), MCL 750.82, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. He was sentenced to concurrent prison terms of 9 years and 2 months to 25 years for the armed robbery and conspiracy to commit armed robbery convictions, 13 months to 5 years for the concealed weapon conviction, and 18 months to 4 years for the felonious assault conviction, and to a consecutive two-year term for the felony-firearm conviction. Defendant appeals as of right and we affirm.

Defendant asserts that the trial court erred in denying his motion for a directed verdict. Specifically defendant argues 1) that there was insufficient evidence that he possessed the necessary specific intent to commit the crimes of armed robbery and conspiracy to commit armed robbery, and 2) that there was insufficient evidence that he possessed a firearm for his convictions of carrying a concealed weapon, felony firearm, and felonious assault. We review de novo sufficiency claims. *People v Harverson*, 291 Mich App 171, 177; 804 NW2d 757 (2010). We “must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Wolfe*, 440 Mich 508, 515-516; 489 NW2d 748, as amended 441 Mich 1201 (1992).

The evidence established that co-defendant Joseph Ashour drove defendant to Charles Wilburn’s house. Defendant met Wilburn outside and the two proceeded into Wilburn’s house. Ashour remained in the car the entire time. Wilburn and his nephew both testified that upon entering the house, defendant pulled out a handgun and demanded money from Wilburn. At this

point, two other men entered the house and demanded that everyone get down on the floor. Wilburn and his nephew testified that the two men were armed, one with a shotgun and the other with a handgun. Defendant denied ever pulling out a gun, but offered similar testimony regarding the entry of the other two men. Wilburn and his nephew testified that defendant participated in the robbery with these two men, but defendant testified that he was forced on the ground with everyone else.

Wilburn's neighbor, Calvin Lee, and Lee's step-father, Booker Jackson, were both outside when defendant arrived. Jackson testified that he witnessed two men get out of the car, one armed with a long barreled gun. However, Jackson also testified that the car was blue or black, while every other witness testified that it was red or maroon. Jackson also identified one of the two men who subsequently got out of the car as defendant, which was inconsistent with the testimony of Wilburn and his nephew, who testified that defendant entered the house with Wilburn and that the other two men entered later. However, Lee, who had gone behind his house to feed his dog, testified that when he returned and Jackson told him what was going on, he went to confront Ashour, who was still in the car. When Lee asked Ashour what was going on, Ashour replied "none of your F-in' business." At this point, Lee called 911.

Wilburn and his nephew testified that defendant and the others searched the house, and at one point defendant and another man assaulted Wilburn's nephew. Defendant testified that it was only the other two men who were involved with the robbery and assault. Wilburn's sister and girlfriend walked in on the robbery. One of the robbers told them to get out. Wilburn's sister described one of the robbers, but the description did not match defendant. The two men that had arrived after defendant then ran out the back door while defendant proceeded out the front door. Wilburn and his sister testified that when defendant ran out, he was carrying a backpack into which Wilburn's nephew had seen the robbers put stolen property. Wilburn caught up with defendant as defendant was entering the rear passenger seat of the car. Wilburn punched defendant in the face and gained control of the backpack. The car then drove off.

The police caught up with the car shortly thereafter. The police performed a felony stop on the vehicle and identified the driver as Ashour and the passenger as defendant. Several cell phones belonging to Wilburn were discovered as well as around \$1,900 in cash. However, no weapons or ammunition were found.

We hold that there was sufficient evidence that defendant had the necessary specific intent to commit the crimes of armed robbery and conspiracy to commit armed robbery. All of defendant's arguments on this issue are based on challenging the credibility of the prosecution's witnesses. However, "[t]he credibility of witnesses and the weight accorded to evidence are questions for the jury, and any conflict in the evidence must be resolved in the prosecutor's favor." *People v Harrison*, 283 Mich App 374, 378; 768 NW2d 98 (2009). In *People v Clark*, 34 Mich App 70, 71; 190 NW2d 726 (1971), we found that the testimony of the victim and another witness was sufficient evidence, despite the fact that the defendant's own testimony conflicted. Similarly in *People v Sesson*, 45 Mich App 288, 290-292; 206 NW2d 495 (1973), we held that the credibility of the prosecution's only substantive witness was a question for the jury despite the fact that the witness admitted to being mistaken about prior testimony at the preliminary examination, stated that he was confused, and admitted to prior legal trouble himself.

In the present case, defendant points to inconsistencies in the testimony of Wilburn's nephew. These inconsistencies are all on minor issues, such as the location of the backpack at various points during the robbery. Defendant also points to evidence that suggests Wilburn himself is a drug dealer. However, none of this suggests defendant's conviction was not supported by sufficient evidence. The credibility of witnesses is an issue for the jury, not the appellate court. Both Wilburn and his nephew testified that defendant was actively engaged in the robbery. Wilburn's sister also testified that defendant ran out of the house toward the car he arrived in with a backpack of stolen objects. Defendant argues there was no evidence of specific intent, but, "[i]ntent and knowledge can be inferred from one's actions." *People v Gould*, 225 Mich App 79, 87; 570 NW2d 140 (1997). There was sufficient evidence for the trier of fact to determine that defendant committed the armed robbery and conspiracy to commit armed robbery and that he specifically intended to do so.

We also find that there was sufficient evidence that defendant possessed a firearm and, therefore, the evidence was sufficient to find him guilty of carrying a concealed weapon, felony firearm, and felonious assault. Defendant's argument on this point is essentially the same as his argument on the first point. Defendant argues that the only evidence that he possessed a firearm was from the testimony of Wilburn and Wilburn's nephew. No witness testified that defendant had a visible firearm while outside the house. However, there was sufficient evidence for the jury to conclude that defendant concealed the weapon in the vehicle, concealed it on his person while walking into the house, and used it to commit the armed robbery and felonious assault once inside the house. Again, issues regarding the credibility of Wilburn and his nephew were properly left to the discretion of the jury. This Court "afford[s] deference to the jury's special opportunity to weigh the evidence and assess the credibility of witnesses." *People v Unger*, 278 Mich App 210, 228; 749 NW2d 272 (2008). The jury's decision to believe the testimony of Wilburn and his nephew over the testimony of defendant did not render his conviction unsupported by sufficient evidence.

Affirmed.

/s/ Donald S. Owens
/s/ Elizabeth L. Gleicher
/s/ Cynthia Diane Stephens