

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 KA 0378

STATE OF LOUISIANA

VERSUS

RONNIE HAMMOND

Judgment Rendered: September 14, 2011

**Appealed from the
23rd Judicial District Court
In and for the Parish of Ascension
State of Louisiana
Case No. 22835**

The Honorable Ralph Tureau, Judge Presiding

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Ronnie Hammond**

BEFORE: GAIDRY, McDONALD, AND HUGHES, JJ.

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GAIDRY, J.

The defendant, Ronnie Hammond, was charged by bill of information with armed robbery, a violation of La. R.S. 14:64. Defendant pleaded not guilty and, following a jury trial, was found guilty as charged. He was sentenced to 99 years at hard labor without benefit of parole, probation, or suspension of sentence. Defendant now appeals, designating one assignment of error. For the following reasons, we affirm the conviction and sentence.

FACTS

On October 21, 2007, between 1:00 a.m. and 2:00 a.m., defendant and three other men drove to the home of Greg and Shavon Walker, the victims, on McKinley Street in Donaldsonville, Ascension Parish. Defendant and two of the men were in a black truck. The fourth man was driving a red Pontiac Grand Prix automobile owned by Ashanti Washington, defendant's girlfriend. Three of the men, including defendant, did not cover their faces, while the fourth covered his face with a stocking.

The man wearing the stocking kicked in the front door of the Walker home. The other three men went into the bedroom, approached the Walkers, who were in bed, and demanded money and drugs. The masked man did not enter the bedroom, but remained by the door. Greg Walker testified at trial that all three men in his bedroom had handguns. The alarm system had activated, so one of the men took Shavon to the control panel and forced her to deactivate the alarm. Greg and Shavon were bound with tie-wraps. Greg told the men that he had money on his dresser and in the top drawer, but he did not have drugs. The men took that money, as well as the money in Shavon's purse. The men ransacked the house. Greg was punched and struck on the head with a pistol. Shavon was also struck. The victims were then dragged to the living room and placed on the floor. After some

discussion about raping Shavon and killing the couple, the men left with the money, Shavon's purse, and Greg's five-gallon Kentwood cooler full of coins.

The cooler and the purse were placed in the automobile. Three of the men left in the black truck, while defendant was to leave in the automobile. However, defendant had left the car keys on Greg's bed. Defendant began to head back to Greg's house, but Greg had managed to free himself, untie his wife, and call the police from a neighbor's house. Unable to retrieve the car keys, defendant returned to the car and threw out the cooler and the purse. It is not clear where defendant went then or how he escaped capture.

About two weeks later, defendant was arrested in New Orleans as a fugitive and transported to the Ascension Parish jail, where he was interviewed by Detective Glen Luna of the Ascension Parish Sheriff's office. Defendant told Detective Luna that he picked an individual up in his girlfriend's automobile and drove him to Donaldsonville to meet an acquaintance of defendant who wanted to do a "lick" or robbery. Defendant met with two men in a black truck. In his statement, defendant told Detective Luna that the two men, armed with guns, got out of the truck and instructed him to come with them. One of the men drove the automobile, while defendant and his passenger got into the truck. They then drove to the Walker home. The masked man kicked the door in. According to defendant's statement, every intruder was armed except him. When they entered the bedroom, the others hit Greg and Shavon with their guns. They instructed defendant to tie Greg and Shavon up, so defendant bound the victims' hands and feet with tie-wraps he obtained from his job.

Defendant testified at trial. He admitted that he had two prior convictions for selling drugs. He testified that he was threatened and forced

to participate in the armed robbery. All three of the other men had guns and forced him to get into the truck and travel to the location of the crimes. Defendant claimed that he was not armed. When they arrived at the victims' home, defendant was the last intruder to enter. One of the men then "made" defendant "follow him around in the room." While doing so, defendant did not hit the victims and did not ransack the house. Defendant further testified that he tied up only Greg and that another intruder tied up Shavon.

On cross-examination, defendant explained that the other men put the stolen "stuff" in his girlfriend's automobile and locked the doors. When asked why the other perpetrators would do that, defendant claimed that it was a perfect alibi for them. He explained further: "I mean, if you want to set somebody up, what better way to do it than to put somebody that's being robbed property [*sic*] into their car." When asked on direct examination if there was anything else he wanted to tell the jury, defendant replied, "I just, well, I'd like to let them know that since the last time I was arrested, I've really been trying to get myself together and some things you just can't help."

ASSIGNMENT OF ERROR

In his sole assignment of error, defendant argues the evidence was insufficient to support the conviction for armed robbery. Specifically, he contends that he was forced to be at the victims' residence against his will. He asserts that he is not a principal to the armed robbery because he did not act in any way to suggest he was "in conjunction" with the other three men who robbed the Walkers.

A conviction based on insufficient evidence cannot stand as it violates due process. *See* U.S. Const. amend. XIV; La. Const. art. I, § 2. The standard of review for the sufficiency of the evidence to uphold a conviction

is whether or not, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. *Jackson v. Virginia*, 443 U.S. 307, 319, 99 S.Ct. 2781, 2789, 61 L.Ed.2d 560 (1979). See La. C.Cr.P. art. 821(B); *State v. Ordodi*, 06-0207, p. 10 (La. 11/29/06), 946 So.2d 654, 660; *State v. Mussall*, 523 So.2d 1305, 1308-09 (La. 1988). The *Jackson* standard of review, incorporated in La. C.Cr.P. 821, is an objective standard for testing the overall evidence, both direct and circumstantial, for reasonable doubt. When analyzing circumstantial evidence, La. R.S. 15:438 provides that the factfinder must be satisfied the overall evidence excludes every reasonable hypothesis of innocence. See *State v. Patorno*, 01-2585, p. 5 (La. App. 1st Cir. 6/21/02), 822 So.2d 141, 144.

Louisiana Revised Statutes 14:64(A) provides that “[a]rmed robbery is the taking of anything of value belonging to another from the person of another or that is in the immediate control of another, by use of force or intimidation, while armed with a dangerous weapon.” The parties to crimes are classified as principals and accessories after the fact. La. R.S. 14:23. Principals are all persons concerned in the commission of a crime, whether present or absent, and whether they directly commit the act constituting the offense, aid and abet in its commission, or directly or indirectly counsel or procure another to commit the crime. La. R.S. 14:24. Only those persons who knowingly participate in the planning or execution of a crime are principals. An individual may be convicted as a principal only for those crimes for which he personally has the requisite mental state. See *State v. Pierre*, 93-0893 (La. 2/3/94), 631 So.2d 427, 428 (*per curiam*).

The state may prove a defendant guilty by showing that he served as a principal to the crime by aiding and abetting another. Under this theory, the

defendant need not have actually performed the taking to be found guilty of a robbery. *State v. Smith*, 513 So.2d 438, 444-45 (La. App. 2d Cir. 1987). Further, a defendant convicted as a principal need not have personally held a weapon to be found guilty of armed robbery. *State v. Dominick*, 354 So.2d 1316, 1320 (La. 1978). One who aids and abets in the commission of a crime may be charged and convicted with a higher or lower degree of the crime, depending upon the mental element proved at trial. *State v. Holmes*, 388 So.2d 722, 726 (La. 1980). Armed robbery is a general intent crime. In general intent crimes, the criminal intent necessary to sustain a conviction is shown by the very doing of the acts that have been declared criminal. *State v. Payne*, 540 So.2d 520, 523-24 (La. App. 1st Cir.), writ denied, 546 So.2d 169 (La. 1989).

Testimony at the trial established that four men, including defendant, entered the home of the Walkers between 1:00 a.m. and 2:00 a.m. Three of these men, including defendant, entered the bedroom and demanded at gunpoint that Greg and Shavon give them money and drugs. The men took their money, then bound Greg and Shavon with the tie-wraps that defendant obtained from his job. The men struck Greg and Shavon several times. The men left the house, taking with them Shavon's purse and Greg's five-gallon water cooler filled with coins. The purse and jug were placed in the Pontiac Grand Prix automobile owned by defendant's girlfriend, the vehicle that defendant was using that night. The other men left in another vehicle, the truck, leaving defendant with the automobile. However, defendant had left the keys to the automobile on Greg's bed and was thus unable to leave the scene in that vehicle.

Defendant does not dispute the fact that he was present during the armed robbery. Instead, he asserts that he was not involved in the actual

robbery, but simply was present in the house as the robbery occurred. Defendant asserts that he did not have a weapon and he did not beat or threaten either victim. He further claims that he was brought to Ascension Parish against his will.

The jury heard all of the testimony and viewed all of the evidence presented to it at trial, finding defendant guilty as charged. The trier of fact is free to accept or reject, in whole or in part, the testimony of any witness. Moreover, when there is conflicting testimony about factual matters, the resolution of which depends upon a determination of the credibility of the witnesses, the matter is one of the weight of the evidence, not its sufficiency. The trier of fact's determination of the weight to be given evidence is not subject to appellate review. An appellate court will not reweigh the evidence to overturn a factfinder's determination of guilt. *State v. Taylor*, 97-2261, p. 6 (La. App. 1st Cir. 9/25/98), 721 So.2d 929, 932. We are constitutionally precluded from acting as a "thirteenth juror" in assessing what weight to give evidence in criminal cases. *See State v. Mitchell*, 99-3342, p. 8 (La. 10/17/00), 772 So.2d 78, 83. The fact that the record contains evidence which conflicts with the testimony accepted by a trier of fact does not render the evidence accepted by the trier of fact insufficient. *State v. Quinn*, 479 So.2d 592, 596 (La. App. 1st Cir. 1985).

It is clear from the finding of guilt that the jury concluded the testimony of the victims and Detective Luna was more credible than defendant's testimony. In finding defendant guilty, the jury clearly rejected defendant's theories of compulsion and non-participation in the armed robbery. *See State v. Captville*, 448 So.2d 676, 680-81 (La. 1984). Based on

defendant's own trial testimony and his second statement to the police,¹ the jury could have reasonably concluded that he was a willing, active participant in the armed robbery.

Defendant testified at trial that the dealer for whom he used to sell drugs in 1998 called him and asked him to find someone to help him with a "lick" or robbery. Defendant admitted that he "recruited" someone to help the dealer and, further, that he (defendant) voluntarily drove the recruit to Donaldsonville to meet with the others planning to perpetrate the robbery. In his second statement, defendant advised the police that he tied the hands and feet of both Greg and Shavon with tie-wraps from his work. He also admitted that Greg's jug of coins and Shavon's purse were placed in his girlfriend's automobile. It appears defendant removed these items from the automobile only after he realized he did not have the keys and could not leave the scene in the automobile.

We note as well that a finding of purposeful misrepresentation reasonably raises the inference of a "guilty mind," as in the case of flight following an offense or the case of material misrepresentation of facts by the defendant following an offense. Lying has been recognized as indicative of an awareness of wrongdoing. *Captville*, 448 So.2d at 680 n.4. The facts in this case established acts of both flight and material misrepresentation by defendant. Upon realizing he could not retrieve and remove the Grand Prix automobile from the scene the armed robbery, defendant fled the scene and filed a false report with the New Orleans Police Department that he had been carjacked that same night. Nine days later, the police interviewed defendant in New Orleans. Defendant falsely claimed that after patronizing a nightclub, he was entering the automobile to leave when man wearing a

¹ In his first statement to the police, discussed below, defendant claimed that his girlfriend's automobile had been stolen prior to the robbery at issue.

baseball cap and batting gloves approached, pointed a gun in defendant's face, and demanded that he surrender the automobile. Defendant supposedly rode around later that night with a friend looking for the automobile. Eight days later, after being arrested, defendant told the police the truth about the armed robbery. Further, both before and during the armed robbery, defendant said or did nothing to prevent the crime. After the crime, instead of contacting the police and informing them that he had been forced to participate in an armed robbery against his will, defendant concocted a cover story in an effort to explain the location of the Grand Prix automobile when it was found by the police.

In the absence of internal contradiction or irreconcilable conflict with the physical evidence, one witness's testimony, if believed by the trier of fact, is sufficient to support a factual conclusion. *State v. Higgins*, 03-1980, p. 6 (La. 4/1/05), 898 So.2d 1219, 1226, *cert. denied*, 546 U.S. 883, 126 S.Ct. 182, 163 L.Ed.2d 187 (2005). Further, the testimony of the victim alone is sufficient to prove the elements of the offense. *State v. Orgeron*, 512 So.2d 467, 469 (La. App. 1st Cir. 1987), *writ denied*, 519 So.2d 113 (La. 1988).

After a thorough review of the record, we find that the evidence supports the jury's unanimous verdict. We are convinced that, viewing the evidence in the light most favorable to the state, any rational trier of fact could have found beyond a reasonable doubt, and to the exclusion of every reasonable hypothesis of innocence, that defendant was guilty of armed robbery. The assignment of error is without merit.

CONVICTION AND SENTENCE AFFIRMED.