

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RILEY RAY FORD,

Defendant-Appellant.

UNPUBLISHED

May17, 2007

No. 266891

Berrien Circuit Court

LC Nos. 2005-402806-FH

2005-402828-FC

Before: Hoekstra, P.J., and Fitzgerald and Owens, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of resisting or obstructing a police officer, MCL 750.81d(1), assault with intent to commit armed robbery, MCL 750.89, assault with intent to commit murder, MCL 750.83, and two counts of possession of a firearm during the commission of a felony (“felony-firearm”), MCL 750.227b(1). The trial court sentenced defendant as an habitual offender, third offense, MCL 769.11, to concurrent sentences of 12 to 48 months’ imprisonment for the resisting or obstructing conviction, 30 to 80 years’ imprisonment for the assault with intent to commit armed robbery conviction, and life imprisonment for the assault with intent to commit murder conviction, to be served consecutively to defendant’s concurrent sentences of two years’ imprisonment for each felony-firearm conviction. Defendant appeals as of right. We affirm.

On May 31, 2005, at approximately 8:00 a.m., Reginald Collins loaned \$100 to Arthur Robinson so Robinson could pay for his rental car. Defendant was Robinson’s brother, and Reginald had met defendant two times before May 31, 2005.

Between 2:00 and 3:00 p.m. on the same day, Reginald received a telephone call from Robinson, who informed Reginald that he had \$100 to pay back the loan. Robinson also told Reginald that he wanted to buy some clothes.¹ Robinson asked Reginald to meet him at his girlfriend’s apartment in the Hayward Wells apartment complex on 8th Street in Benton Harbor.

Reginald left work with a vehicle full of clothes. His first stop was the Hayward Wells apartment complex. As he pulled into the parking lot, he received a telephone call from

¹ Reginald claimed that he worked in Mishawaka, Indiana, selling clothing, handbags, and shoes.

Robinson, who told him “to come on up” to his girlfriend’s apartment. Reginald left his vehicle, grabbed a black bag containing shirts, and started to walk down the sidewalk to the apartment. Defendant, who was holding a gun, “sprung up from off the side” of Robinson’s rental car. Defendant was wearing blue jean shorts, a white t-shirt with a “Scarface” character imprinted on it, a black baseball cap, and “a black scarf or skull hat like, tied around his mouth.” Defendant’s nose and eyes were uncovered, and his head was bald on the sides. Reginald believed that defendant’s gun was a chrome .380-caliber semiautomatic handgun.

Defendant pointed his gun at Reginald and ordered him to “give him everything that [he] got,” and tried to force him inside the apartment. Robinson, who also had a gun, was standing at the door to the apartment building, telling defendant to get Reginald inside the apartment. Reginald dropped the black bag and started to back away. Defendant grabbed the bag and ran inside the apartment. Reginald, noticing a chance to escape, ran toward to the entrance of the apartment complex.

Defendant, however, chased Reginald. He fired a gunshot at Reginald, and Reginald quit running because he knew he would not be able to outrun defendant. Reginald was “a pretty heavy guy,” while defendant was thin. Reginald stopped and decided to fight defendant. Defendant swung his handgun at Reginald, hitting him across the nose with the gun. Reginald swung back at defendant “to try get [defendant] off of” him. But defendant swung his handgun a second time. Defendant kept telling Reginald to give him his money. Reginald replied that he had no money. Defendant then shot Reginald in the head. Reginald fell to the ground, and defendant ran back to the apartment. During the fight, part of defendant’s “mask” fell down, and Reginald was “absolutely, positively sure” that the person who shot him was defendant.

At approximately 4:00 p.m., Ingrid Robinson awoke from the nap she was taking in her apartment in the Hayward Wells apartment complex. She heard “some sounds.” She looked out her bedroom window, which faced the entrance to the apartment complex, and saw “two gentlemen” and “a short chase.” Ingrid then saw one man on the ground and another man wearing a light colored t-shirt and holding a gun in his left hand. The man with the gun shot the man on the ground and, after doing so, ran toward some other apartment buildings. Ingrid did not see the shooter’s face, but she could tell that he “was a dark-skinned male.”

Between 4:00 and 5:00 p.m., Beverly Milton drove into the Hayward Wells apartment complex. She saw two men running in “the front entrance area.” Milton did not recognize either man. Both men fell. The “victim” fell first and the other man fell on top of him. Milton remembered that the face of the man on top was “covered.” She did not see a weapon, but she heard what she thought “sounded like a firecracker.” After she heard this, she saw the man on top run toward the entrance of the apartment complex. Milton called 911.

When Officer Andrew Collins arrived at the entrance to the Hayward Wells apartment complex, Reginald informed that him that he had been shot.² After Officer Collins had Reginald sit in the back seat of his car, Reginald informed him that “‘Chicken Wing’ and another guy had

² It does not appear that Officer Collins and Reginald Collins are related.

shot him and they were north of the—the entrance.”³ Officer Collins then drove himself and Reginald to the north end of the apartment complex. During the drive, Reginald informed Officer Collins that he saw defendant between two apartment buildings. Officer Collins then saw defendant walking from the back of an apartment building toward 9th Street. Officer Collins left his car, leaving Reginald inside, and tried to make contact with defendant. He walked toward defendant and yelled at him to get his attention. When defendant turned and faced Officer Collins, Officer Collins ordered him to stop because he was under arrest. Instead of obeying, defendant ran toward 9th Street. Officer Collins radioed defendant’s description and his direction of travel to other officers.

Sergeant Joel Deenik heard Collins’s radio report and drove down 9th Street. He observed defendant lying on his stomach approximately eight feet into a heavily wooded area. Deenik approached and handcuffed him. Defendant was wearing the “Scarface” t-shirt and blue jean shorts that Reginald had described.

Detective William Althouse interviewed defendant. Defendant, who confirmed that he was left-handed, informed Althouse that he was in the area of the Haywood Wells apartment complex and the wooded area looking for his dog, a red-nosed, gaiter-mouthed pit bull. According to defendant, he did not hear gunshots and he did not run from a police officer. Althouse conducted an atomic absorption test, which tests for gunpowder residue, on defendant, but the test was never processed. Althouse also confiscated defendant’s clothing, but it was never tested for blood.

Following his interview with defendant, Althouse and other officers searched the apartment of Robinson’s girlfriend. The officers found a .380-caliber semiautomatic pistol and ammunition in a dresser drawer in the master bedroom. They also found a black New York Yankees baseball cap and a knit facemask, or knit tube, on the kitchen counter. The officers did not find a black bag containing shirts. Neither the Yankees baseball cap nor the knit facemask was submitted for DNA testing. No fingerprints were found on the handgun’s magazine, and only a fingerprint belonging to Jeffery Crump, a firearm examiner for the Michigan State Police, was found on the pistol.

Defendant argues on appeal that his conviction for resisting or obstructing a police officer is not supported by sufficient evidence. According to defendant, his flight, by itself, is not sufficient evidence of resisting or obstructing a police officer. When reviewing the sufficiency of the evidence to sustain a criminal conviction, 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; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

A person is guilty of resisting or obstructing a police officer if he “assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties” MCL 750.81d(1). The statute defines

³ “Chicken Wing” and “Chick” are Robinson’s street names.

obstructing as including “a knowing failure to comply with a lawful command.” MCL 750.81d(7)(a). After Officer Collins yelled at defendant and defendant turned and faced him, Officer Collins ordered defendant to stop because he was under arrest. Instead of obeying Officer Collins’s command, defendant ran away. Although found defendant lying on his stomach eight feet into a heavily wooded area. Viewing this evidence in the light most favorable to the prosecution, *Wolfe, supra* at 515, a rational trier of fact could find beyond a reasonable doubt that defendant knowingly failed to obey a lawful command. Defendant’s conviction for resisting or obstructing a police officer is supported by sufficient evidence.

Defendant also argues on appeal that the prosecution failed to present sufficient evidence for the jury to identify him as the perpetrator of the crimes against Reginald. Identity is an essential element of a criminal prosecution. *People v Oliphant*, 399 Mich 472, 489; 250 NW2d 443 (1976). Further, the prosecution “must identify the accused as the person who committed the alleged offense.” *People v Kern*, 6 Mich App 406, 409; 149 NW2d 216 (1967). A positive identification by a witness may be sufficient to support a conviction of a crime. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). The credibility of identification testimony is a question for the trier of fact, which we will not resolve anew on appeal. *Id.* In addition, circumstantial evidence and reasonable inferences arising from the evidence may be sufficient to identify the accused as the perpetrator. *People v Nelson*, 234 Mich App 454, 459; 594 NW2d 114 (1999); *Kern, supra* at 409-410.

In the present case, Reginald identified defendant as the person who jumped out from behind Robinson’s rental vehicle, pointed a gun at him, and demanded that Reginald give him everything he had. Reginald also identified defendant as the person who shot him in the head. Further, Reginald testified that the person who attempted to rob him was wearing blue jean shorts and a white T-shirt with a “Scarface” character imprinted on it. These were the same clothes defendant was wearing when he was handcuffed. Viewing this evidence in the light most favorable to the prosecution, *Wolfe, supra* at 515, a rational trier of fact could find beyond a reasonable doubt that defendant was the person who assaulted Reginald two times, first, with the intent to commit armed robbery and, then, with the intent to commit murder.

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Donald S. Owens