

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE TYRONE PAYTON, a/k/a
TERRENCE TYRONE PAYTON,

Defendant-Appellant.

UNPUBLISHED

December 15, 1998

No. 206188

Wayne Probate Court

LC No. 96-344874

Before: Griffin, P.J., and Neff and Bandstra, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction for unarmed robbery, MCL 750.530; MSA 28.798. The juvenile division of the probate court took jurisdiction pursuant to MCL 712A.2(a)(1); MSA 27.3178(598.2)(a)(1). Defendant was sentenced to probation and an electric tether for sixty days. We affirm.

Defendant contends that his conviction was against the great weight of the evidence. We disagree. The verdict was reasonably supported by the evidence and has not resulted in a miscarriage of justice because the evidence did not clearly weigh in defendant's favor. *People v Lemmon*, 456 Mich 625, 642; 576 NW2d 129 (1998); *People v DeLisle*, 202 Mich App 658, 661; 509 NW2d 885 (1993).

Defendant was found guilty of unarmed robbery. The elements of unarmed robbery are: (1) a felonious taking of property from another; (2) by force or violence or assault or putting in fear; and, (3) without the use of a dangerous weapon. MCL 750.530; MSA 28.798; *People v Johnson*, 206 Mich App 122, 126; 520 NW2d 672 (1994). Unarmed robbery is a specific intent crime. *People v Himmelein*, 177 Mich App 365, 379; 442 NW2d 667 (1989). Thus, defendant must have either had the actual intent to rob the victim at the time the forceful act was committed, or, he must have aided and abetted the actual perpetrator knowing that the perpetrator had the required intent to rob. *People v Hearn*, 159 Mich App 275, 280; 406 NW2d 211 (1987); *People v Spry*, 74 Mich App 584, 595; 254 NW2d 782 (1977). One aids and abets if (1) the crime charged was committed by the defendant or another person; (2) the defendant performed acts or provided encouragement that assisted in 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 he gave aid or encouragement. *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995). The state of mind of an aider and abettor may be inferred from all the facts and circumstances. *Id.* An aider and abettor is chargeable as a principal and is equally liable for the actions of others acting in concert. MCL 767.39; MSA 28.979; *Turner, supra* at 568.

Defendant contends that conflicting testimony regarding the events that transpired during the robbery should be sufficient to reverse the finding of his guilt. However, the victim testified that he saw and felt defendant strike him in the face four times. A witness testified that defendant stopped him from attempting to get a codefendant, who was punching the victim in the face, off of the victim. In either case, defendant can be said to have aided and abetted, through his assistance, in the robbery of the victim. Defendant's actions against the victim occurred after a codefendant said, "[l]et a real man get the money," while codefendant proceeded to bend the victim's fingers back in an attempt to take the \$20 bill. Defendant, therefore, had the intent to rob the victim or aided codefendant, knowing that codefendant had the required intent to rob. Codefendants testified that defendant did not strike the victim. However, credibility issues regarding witness testimony are to be resolved by the trier of fact, not the reviewing court. *People v Velasquez*, 189 Mich App 14, 16; 472 NW2d 289 (1991).

Further, the elements of unarmed robbery and aiding and abetting do not demand that one be present during the entire criminal act, have any verbal contact with the victim, or commit every element of the crime. It is sufficient that defendant was an active participant in a concerted criminal enterprise to beat and take the victim's money. *Turner, supra* at 568.

Defendant also claims that the lower court record did not adequately state findings of fact and conclusions of law in support of its finding of guilt. However, factual findings are sufficient as long as it is manifest that the court was aware of the factual issues and resolved them. *People v Johnson (On Rehearing)*, 208 Mich App 137, 141-142; 526 NW2d 617 (1994). In this case, the primary factual issue was whether defendant struck the victim or participated in the assault of the victim for the purpose of robbing him of \$20. The court denied defendant's motion for directed verdict because it held the victim's testimony, that defendant had struck him four times and that defendant had run off with the other defendants after they got the \$20 bill, to be credible. At the conclusion of the trial, the court reiterated that it believed the testimony of the victim and witness and held that the three defendants were guilty of unarmed robbery. In this case, the court's findings were sufficient because they demonstrate that the court was aware of and resolved the factual issues.

Affirmed.

/s/ Richard Allen Griffin
/s/ Janet T. Neff
/s/ Richard A. Bandstra