

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

DECEMBER 1995 SESSION

FILED

March 6, 1996

Cecil Crowson, Jr.

Appellate Court Clerk

STATE OF TENNESSEE,

Appellee,

VS.

KENNETH MCFARLAND,

Appellant.

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C.C.A. # 02C01-9505-CC-00153

HAYWOOD COUNTY

Hon. Dick Jerman, Jr., Judge

(Aggravated Robbery)

For Appellant:

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Trenton, TN 38382

OPINION FILED: _____

AFFIRMED

GARY R. WADE, JUDGE

OPINION

The defendant, Kenneth McFarland, was convicted of aggravated robbery and, as a standard offender, received a Range I sentence of twelve years. On appeal, the defendant claims the evidence was insufficient to support the verdict.

We affirm the trial court's judgment.

At about 2:00 A.M. on February 19, 1994, Patrolman Shawn Williams of the Brownsville Police Department was dispatched to the residence of Mary Estes. Upon his arrival, the officer determined that the victim, Mark Sangster, had been robbed at knife-point of about \$40.00. The victim, who had known the defendant for at least six years prior to the incident, provided the officer with the details of the robbery and described clothes that the defendant was wearing.

The defendant resided at the Estes residence at the time of the offense. She testified that the defendant had suggested to the victim that they go somewhere to gamble just before they left the residence. She recalled that the defendant returned about five minutes later and reported that he had been robbed. Ms. Estes testified that the defendant had suggested earlier that she help rob the victim of his money but that she had declined to participate.

The victim, whose health had deteriorated from the time of the offense until the trial due to an unrelated illness, testified that the defendant had robbed him of

\$40.00. He remembered that he had left the Estes residence about an hour before returning to report the robbery.

The defendant testified that on the night in question he had been gambling at the Estes residence with the victim, Samantha Douglas, Tracy Land, and Ms. Estes. Sometime after midnight, he and the victim decided to gamble some more at the residence of a relative. The defendant claimed that, at the end of the evening, he had refused to make a loan to the victim, who had lost his money. While admitting that he may have said something to Ms. Estes earlier about taking the victim's money, the defendant insisted that he was referring to trickery or cheating, not robbery. He testified that he never carried a weapon and that Ms. Estes had a motive to lie because he had refused to cash a check that was not rightfully hers.

On appeal, the state is entitled to the strongest legitimate view of the evidence and all reasonable inferences which might be drawn therefrom. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). The credibility of the witnesses, the weight to be given their testimony, and the reconciliation of conflicts in the proof are matters entrusted to the jury as triers of fact. Byrge v. State, 575 S.W.2d 292, 295 (Tenn. Crim. App. 1978). When the sufficiency of the evidence is challenged, the relevant question is whether, after reviewing the evidence in the light most favorable to the state, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt. State v. Williams,

657 S.W.2d 405, 410 (Tenn. 1983), cert. denied, 465 U.S. 1073 (1984); Tenn. R. App. P. 13(e).

Aggravated robbery is robbery accomplished with the use of a deadly weapon. Tenn. Code Ann. § 39-13-402(a)(1). Robbery is defined as "the intentional or knowing theft of property from the person of another by violence or putting the person in fear." Tenn. Code Ann. § 39-13-401. Here, there was testimony that the defendant threatened the victim with a weapon, robbing him of approximately \$40.00. That alone established the elements of the offense.

The defendant claims that the evidence is insufficient because there were conflicts in the testimony of the state's witnesses. That is true, but it is the responsibility of the jury to resolve these differences. State v. Cabbage, 571 S.W.2d at 876. Here, the jury chose to accredit the basic theory of the state. It was their prerogative to do so. The evidence, in our view, was sufficient for a rational trier of fact to have found the essential elements of the crime of aggravated robbery beyond a reasonable doubt. Jackson v. Virginia, 443 U.S. 307 (1979).

Accordingly, the judgment of the trial court is affirmed.

Gary R. Wade, Judge

CONCUR:

John H. Peay, Judge

David H. Welles, Judge