STATE OF MINNESOTA
IN COURT OF APPEALS
A08-1174

State of Minnesota,
Respondent,

vs.

Nicholas Alonzo Jefferson,
Appellant.

Filed August 11, 2009
Affirmed
Toussaint, Chief Judge

Hennepin County District Court
File No. 27-CR-07-124162

Lori Swanson, Attorney General, 1800 Bremer Tower, 445 Minnesota Street, St. Paul, MN 55101-2134; and

Michael O. Freeman, Hennepin County Attorney, Michael K. Walz, Assistant County Attorney, C-2000 Government Center, 300 South Sixth Street, Minneapolis, MN 55487 (for respondent)

Marie L. Wolf, Interim Chief Appellate Public Defender, Davi E. Axelson, Assistant Public Defender, 540 Fairview Avenue North, Suite 300, St. Paul, MN 55104 (for appellant)

Considered and decided by Shumaker, Presiding Judge; Toussaint, Chief Judge; and Halbrooks, Judge.

U N P U B L I S H E D O P I N I O N

TOUSSAINT, Chief Judge

Appellant Nicholas Alonzo Jefferson challenges the sufficiency of the evidence to support his conviction for aiding and abetting first-degree aggravated robbery, arguing that certain evidence raised questions about the credibility of the state's witnesses and that he did not actively participate in the robbery. Because the record contains sufficient evidence supporting the conviction and because we defer to the jury's credibility findings, we affirm.

D E C I S I O N

When considering a challenge to the sufficiency of the evidence, "[w]e will not disturb a verdict if the jury could reasonably conclude, given the presumption of innocence and the requirement of proof beyond a reasonable doubt, that the defendant was guilty of the charged offense." *State v. Pendleton*, 759 N.W.2d 900, 909 (Minn. 2009). We assume that the jury believed the state's witnesses and disbelieved any evidence to the contrary. *Id.* We defer to the jury's credibility findings. *Id.*

A person commits first-degree aggravated robbery if, while armed with a dangerous weapon, he takes personal property from a person in the presence of the person, knowing that he is not entitled to do so, and uses force or threat of imminent force to overcome resistance or compel acquiescence in the taking or carrying away of the property. Minn. Stat. §§ 609.24, .245, subd. 1 (2006); 10 *Minnesota Practice*, CRIMJIG 14.03 (2008). A person also commits first-degree aggravated robbery if he or she "intentionally aids, advises, hires, counsels, or conspires with or otherwise procures

[another person] to commit [first-degree aggravated robbery]." Minn. Stat. § 609.05, subd. 1 (2006). In the instant case, the jury specifically found appellant guilty of *aiding and abetting* aggravated robbery in the first degree.

Appellant argues that the evidence is insufficient as a matter of law to prove that he aided and abetted the robbery. He cites *State v. Ulvinen* for the proposition that the mens rea requirement for aiding and abetting is not satisfied unless the aider and abettor engages in "a high level of activity" from which criminal intent can be inferred. 313 N.W.2d 425, 428 (Minn. 1981). Indeed "[m]ere presence at the scene of a crime does not alone prove that a person aided or abetted." *State v. Ostrem*, 535 N.W.2d 916, 924 (Minn. 1995). But when "the accused plays at least some knowing role in the commission of the crime and takes no steps to thwart its completion, the jury may properly infer the requisite mens rea for a conviction of aiding and abetting." *State v. Souvannarath*, 545 N.W.2d 30, 34 (Minn. 1996) (quotation omitted). A jury may even infer criminal intent from a person's "presence, companionship, and conduct before and after the offense." *Ulvinen*, 313 N.W.2d at 428.

We conclude that the testimony supplied by three witnesses was sufficient to prove that appellant aided and abetted aggravated robbery in the first-degree. The first witness, B.D., testified that he participated with appellant in an armed robbery that took place on October 28, 2007, in an alley near the 38th-Street transit station in Minneapolis. B.D. stated that appellant, whom he knew by the nickname "Texas," initiated the robbery by pulling out a gun and telling the victim to "empty [his] pockets." B.D. also identified appellant at trial as the person who participated in the robbery.

The second and third witnesses at trial, T.S. and J.D., corroborated B.D.'s testimony. *Cf.* Minn. Stat. § 634.04 (2006) (stating that "conviction cannot be had upon the testimony of an accomplice, unless it is corroborated by such other evidence as tends to convict the defendant of the commission of the offense"). T.S. testified that the person who was with B.D. at the transit station and went by the nickname "Texas" pulled out a gun, told T.S. to empty his pockets, rifled through his pockets, and took his belongings. J.D. stated that appellant, whom he identified at trial and knew as "Texas," pulled out a gun during the robbery and tried to reach into the pockets of T.S. The combined testimony of B.D., J.D., and T.S. is sufficient to establish that appellant actively participated in the crime and satisfies the requirement for a high level of activity on the part of the aider and abettor.

Appellant asserts that the witnesses' testimony is not credible, and he points to several inconsistencies and evidence bearing on their credibility. But the inconsistencies and evidence emphasized by appellant do not warrant reversal. The jury had the opportunity to evaluate the witnesses' testimony in light of their prior statements, the testimony of the other witnesses, and the witnesses' relationships to one another. The district court properly instructed the jury on credibility determinations. Because we defer to the jury's findings on witness credibility, the inconsistencies do not provide a basis for reversal.

Affirmed.