

No. 1-10-3695

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 10 CR 3839
)	
VONTRAIL MOORE,)	Honorable
)	John A. Wasilewski,
Defendant-Appellant.)	Judge Presiding.

JUSTICE GARCIA delivered the judgment of the court.
Presiding Justice Lampkin and Justice Hall concurred in the judgment.

ORDER

¶ 1 *Held:* Evidence that at the time defendant committed a robbery he had in his pocket a folded knife with a three-and-one-half inch blade was sufficient to establish defendant's guilt of armed robbery.

¶ 2 In a bench trial, defendant Vontrail¹ Moore was convicted of armed robbery and sentenced to seven years in prison. On appeal, defendant contends that his conviction should have been reduced to robbery because the prosecution failed to prove the dangerous nature of a folded knife which defendant had in his pocket when he committed a robbery.

¹ Defendant's first name is also spelled Vantrail in the record.

¶ 3 At trial, Edward Smith testified that at about 3 a.m. on January 25, 2010 he was waiting for a bus at 79th and State Street in Chicago when defendant grabbed him by the shirt. Defendant had one hand in his pocket and poked Smith with what Smith believed to be a metal object, although he could not see it. Defendant demanded that Smith allow him to "get in them pockets." While still poking Smith with the object in his pocket, defendant took Smith's cell phone, charger, bus card and wallet. Smith walked away but then saw the police and pointed defendant out to them as the person who had just robbed him. The police apprehended defendant and recovered Smith's property.

¶ 4 Desmond Hinton testified that he was with defendant on the night in question. He saw defendant and a young man both smoking. He then saw the young man running down the street with his arms in the air. Hinton denied seeing defendant with his hand in the young man's pocket. He believed defendant had a knife with him that evening because defendant carried it around with him sometimes, but he did not see a knife. Hinton testified that he and defendant were taken into custody. At the police station Hinton gave a handwritten statement to an assistant State's Attorney in which he said that he heard defendant say "Come on, man." to the young man. He also said that he heard the young man screaming "Help. They robbed me." But Hinton testified at trial that these statements that he made were not true and that the police had threatened to charge him if he did not agree with what they said.

¶ 5 Chicago police officer Michael Dearborn testified that on the night in question he and his partner were flagged down by Smith, who told them he had just been robbed by defendant and Hinton. Dearborn detained defendant after seeing him drop a wallet and a cell phone. Smith identified these items as belonging to him and also identified defendant. When Dearborn patted down defendant he found a knife in the outer pocket of his coat. Dearborn described it as a hunting knife, with a blade which was three and one-half to four inches long and

two and one-half inches wide. Dearborn identified the knife at trial and it was introduced into evidence. Dearborn testified that when he recovered the knife from defendant, the blade was folded into the handle. Defendant was taken to the police station, where he admitted that he was "in the dude's pockets." According to Dearborn, defendant's companion, Desmond Hinton, gave a written statement at the police station in which he said that defendant had a knife that evening and that defendant put his hand in the victim's pocket and said "Come on, man. Come on, man." Hinton also said that he heard the victim screaming "Help. They robbed me."

¶ 6 Gerald Hamilton testified that he was a retired Chicago police detective who was still working at the time defendant was apprehended. He witnessed defendant make a statement to an assistant State's Attorney. That statement was then reduced to a writing. In the statement, defendant said that on the night in question he and the victim shared a marijuana cigarette. Defendant, who had a knife in his right front pocket, then pulled the victim towards him and put his hands in his pockets, taking his wallet and cell phone. When he saw the victim flagging down the police, defendant set down the items he had taken and ran. He was then arrested by the police.

¶ 7 At the close of the evidence defendant was convicted of armed robbery. He was subsequently sentenced to seven years in prison. He has now appealed.

¶ 8 Defendant contends that he should not have been convicted of armed robbery because the prosecution failed to prove that the knife in his pocket was dangerous. Although defendant argues that this is a legal determination, which is reviewed *de novo*, we find that the issue is a factual one, as it depends upon a determination of whether the knife's condition rendered it dangerous. *People v. Ross*, 229 Ill. 2d 255, 275 (2008) (whether an object could cause serious injury was a question of fact). Our standard of review is a familiar one: viewing the evidence in the light most favorable to the prosecution, could any rational trier of fact find the

essential elements of the crime beyond a reasonable doubt. *People v. Beauchamp*, 241 Ill. 2d 1, 18 (2011). To prove armed robbery, the prosecution must prove that the accused committed a robbery while carrying a dangerous weapon other than a firearm.² 720 ILCS 5/18-2(a)(1) (West 2010). Defendant concedes in his reply brief that the prosecution was not required to prove that he used the knife in the commission of the armed robbery, or that the victim was even aware of the knife. *People v. Addison*, 236 Ill. App. 3d 650, 655 (1992) (sufficient that defendant who beat and robbed victim had a gun in her possession, even though it was never displayed). But defendant contends that there was insufficient evidence that the knife he possessed was dangerous. Defendant relies upon *People v. Ross*, 229 Ill. 2d 255, 275-77 (2008). But in *Ross*, the court found that a pellet gun with a three inch barrel was not proven to be dangerous where it was never introduced into evidence and there was no evidence that it was loaded or that it was of a size and weight suitable for use as a bludgeon. *Ross*, 229 Ill. 2d at 275-76. *Ross* is instructive in that it held that the trier of fact may infer dangerousness of a weapon from the evidence. *Ross*, 229 Ill. 2d at 276. Here, defendant had a knife, which is used for cutting. The knife was introduced into evidence at trial. It was described as a folding hunting knife with a blade that was three to four inches long and two and one-half inches wide. A rational trier of fact could have found that this knife was a dangerous weapon and we therefore affirm defendant's conviction for armed robbery.

¶ 9 The judgment of the circuit court is affirmed.

¶ 10 Affirmed.

² Under current law, robbery while carrying a firearm constitutes armed robbery without additional proof that the firearm is dangerous. 720 ILCS 5/18-2(a)(2) (West 2010).