

2018 IL App (1st) 160499-U  
No. 1-16-0499  
Order filed January 30, 2018

Second Division

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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST DISTRICT

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THE PEOPLE OF THE STATE OF ILLINOIS,	)	Appeal from the
	)	Circuit Court of
Plaintiff-Appellee,	)	Cook County.
	)	
v.	)	No. 13 CR 17705
	)	
MARTRELL HOLMES,	)	Honorable
	)	Nicholas R. Ford,
Defendant-Appellant.	)	Judge, presiding.

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JUSTICE PUCINSKI delivered the judgment of the court.  
Presiding Justice Neville and Justice Hyman concurred in the judgment.

**ORDER**

¶ 1 *Held:* Defendant's armed robbery conviction affirmed where the trial court's denial of his motion to suppress his identification was not against the manifest weight of the evidence, and the evidence proved him guilty beyond a reasonable doubt.

¶ 2 Following a joint bench trial, defendant Martrell Holmes and codefendant Victor Jones<sup>1</sup> were convicted of armed robbery with a dangerous weapon other than a firearm. The trial court

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<sup>1</sup> Codefendant Jones' appeal is pending before this court in case number 1-15-3632. He is not a party to this appeal.

sentenced defendant to 10 years' imprisonment. On appeal, defendant contends that the trial court erred when it denied his motion to suppress his identification because the photo arrays and lineup were unduly suggestive. Defendant also contends that the State failed to prove him guilty beyond a reasonable doubt because the victims' identification of him was unreliable, and the evidence did not establish that the offender was armed with a dangerous weapon. We affirm.

¶ 3 Defendant was charged with two counts of armed robbery while armed with a firearm, two counts of armed robbery while armed with a dangerous weapon other than a firearm, specifically, a bludgeon, two counts of attempted armed robbery, and six counts of aggravated unlawful restraint. The three victims were Shantrell Suggs, Ann Armstrong and Dawon Lee.

¶ 4 Defendant filed a motion to suppress identification testimony alleging that the State's witnesses viewed photo arrays and a lineup that improperly suggested that he was the offender. Defendant claimed that disparities in age, height, weight, dress, complexion, and other distinguishing characteristics, as well as an inadequate number of subjects, made the photo arrays and lineup improperly conducive to misidentifying him. Defendant requested that the court suppress the witnesses' pretrial and in-court identifications of him.

¶ 5 At a hearing on the motion, defendant presented testimony from Chicago police detective Modelski who conducted the lineup on August 13, 2013. Modelski testified that the lineup was comprised of five participants, including both defendant and Jones. Modelski was aware that both defendants had been included in photo arrays that were previously shown to the victims. None of the other members of the photo arrays were included in the lineup.

¶ 6 After reviewing a police report, Modelski testified that the initial description of the two offenders was "[t]wo male blacks, approximately 5'8", approximately 120 pounds,

approximately 18 to 20 years old, black hair.” The description did not mention any tattoos. Modelski acknowledged that a photograph of the lineup showed that both defendants had tattoos on their necks that were visible to the victims. None of the other participants in the lineup had tattoos on their necks. The three victims – Suggs, Armstrong, and Lee – each viewed the lineup separately, one at a time with Modelski, who was assisted by Detective Kleas.

¶ 7 On cross-examination, Modelski testified that the photo array viewed by Armstrong in July 2013 did not include Jones. The only photo array that included both defendants was the one subsequently viewed by Suggs. That was because Suggs had provided information that led to the identification of Jones as a suspect. Lee never viewed a photo array.

¶ 8 Modelski created the lineup by finding participants with similar physical compositions. The victims were not told that they had to identify someone or that there were two possible offenders in the lineup. Lee viewed the lineup first and identified only Jones, who was in the first position. After viewing the lineup, Lee was placed in a separate room isolated from Armstrong and Suggs, and was prohibited from communicating with them before they viewed the lineup. Armstrong viewed the lineup next and identified only Jones. Suggs viewed the lineup last and identified both defendants.

¶ 9 Defense counsel pointed out that defendant’s tattoo was not visible in the photo array because his head was tilted. Counsel argued, however, that in the lineup, the defendants’ matching tattoos were very clear, which allowed the victims to infer that they were the two offenders who committed the crime together. Counsel argued that the tattoos should have been covered, but Modelski chose to make the defendants stand out. Counsel also argued that the

defendants stood out because they were the only two people who appeared in both the photo arrays and lineup.

¶ 10 The trial court acknowledged that both defendants have star tattoos on their necks, though one is more prominent than the other. The court found, however, that there was no indication that defendants were misidentified on that basis. The court concluded that there was nothing about the manner in which the lineup was conducted, or the conduct of the police, that was unconstitutional. Therefore, the court denied defendant's motion to suppress the identifications.

¶ 11 At trial, Shantrell Suggs testified that about 8:40 p.m. on July 22, 2013, she was walking home with her cousin near 19 South Leamington Avenue when a man came up behind her and said "give me your shit." Suggs looked over her shoulder and recognized the man as defendant. Suggs knew defendant by his first name. She did not initially recognize his voice. Suggs turned and faced defendant, and saw that he had a black gun. Defendant reached into Suggs' jacket pocket and took her iPhone and \$50. She did not give him permission to take her property. As this occurred, Jones walked past them and said "I'm not going to rob no Bitch." Jones proceeded to rob two other people. The defendants then fled. Suggs identified both defendants in court.

¶ 12 Suggs viewed a photo array on August 10, 2013. Prior to the viewing, Officer Murphy explained to her that the offender may or may not be in the photo array, that she was not required to identify anyone, and that he did not necessarily know who the offender was. Suggs signed an advisory form acknowledging those propositions. Suggs identified defendant and Jones as the men who robbed her. In court, Suggs identified the photo array and her signature on the photos of defendant and Jones.

¶ 13 On August 13, 2017, Suggs viewed a lineup. An officer again advised her that the offender may or may not be in the lineup, that she was not required to identify anyone, and that the police did not necessarily know who the offender was. She signed another advisory form acknowledging those propositions. Suggs identified defendant, who was in the fourth position, and Jones, who was in the first position. In court, Suggs viewed a photograph of the lineup and pointed out defendant and Jones as the men who robbed her.

¶ 14 On cross-examination, Suggs testified that she knew defendant from the neighborhood. Their relationship was “mostly friendly,” and they never had an argument. Suggs did not know Jones prior to the robbery. Two days after the robbery, Suggs saw Jones in a car at a gas station at the corner of Leamington and Madison. She did not speak to him, nor did she call the police.

¶ 15 Suggs further testified that during the robbery, both defendants wore white T-shirts wrapped around their faces, covering their noses and mouths. Jones was not wearing a shirt on his body, leaving his chest and arms exposed. Jones wore Rods jeans with a Louis Vuitton belt. His hair was styled in a low fade. Suggs gave police a description of Jones. The only part of the description she recalled at trial was that he had a tattoo on his neck of a red five-point star outlined in black. Defendant had the same tattoo. Based on her prior knowledge of defendant from the neighborhood, Suggs had previously seen the star tattoo on his neck. Suggs acknowledged that she saw the tattoos when she viewed the photo array and lineup. None of the other people in the photo array or lineup had a star tattoo. The tattoo has become common in her neighborhood. During the robbery, Suggs looked directly at Jones’ face and saw his eyes. Jones was also holding a gun. Suggs acknowledged that she was not familiar with guns, and did not touch it or see it fire.

¶ 16 Ann Armstrong testified that about 8:42 p.m. on July 22, she and her boyfriend, Dawon Lee, were sitting on the front stoop of her apartment building on South Leamington Avenue. Armstrong was braiding her hair with her head down when defendant and Jones approached. She identified both defendants in court. Jones pointed a gun directly at Armstrong's face, less than a foot away, and said "[e]mpty your motherfucking pockets." The gun was not a revolver, so she believed it was a semiautomatic. It was a "big black gun" that was metal and appeared to be real.

¶ 17 Armstrong and Lee stood up. Jones reached inside Lee's pocket, and defendant grabbed Armstrong's phone from the stoop where it had been sitting next to her. Her phone was inside a case that also contained a money order for \$650 for her rent. Defendant and Jones then fled.

¶ 18 Armstrong viewed a photo array on July 24, 2013. The police told her that the offender may or may not be in the photo array, and that she was not required to identify anyone. They did not say that they knew who the offender was. Armstrong signed an advisory form acknowledging those propositions. She identified defendant as the man who took her phone and money order.

¶ 19 On August 13, 2013, Armstrong viewed a lineup. A detective again advised her that the offender may or may not be in the lineup, that she was not required to identify anyone, and that he did not necessarily know who the offender was. She signed another advisory form stating those propositions. Armstrong identified Jones, who was in the first position, as the man with the gun, and defendant, in the fourth position, as the man who took her phone and money order. In court, Armstrong viewed a photograph of the lineup and pointed out defendant and Jones as the men who robbed her.

¶ 20 On cross-examination, Armstrong testified that at the time of the robbery, it was not quite dark outside. Defendant covered his face from the nose down with his T-shirt. She was not able to see his neck, lips or nose, but she remembered his eyes. Armstrong gave a description of the offenders to the officers who arrived at the scene. She did not know the offenders and had never seen them before. Her property was never returned to her.

¶ 21 On redirect examination, Armstrong testified that she described the offenders to police as African-American, one with a little darker complexion than the other. They were in their late 20s or early 30s. One was taller than the other. They both had black hair with short haircuts. Although defendant's face was partially covered with his shirt, she was able to see his forehead, hair, ears and eyes.

¶ 22 On re-cross-examination, Armstrong testified that she gave police a clothing description and stated that Jones was not wearing a shirt. She did not notice any tattoos during the offense. Defendant was the only person who appeared in both the photo array and lineup.

¶ 23 Dawon Lee was sitting with Armstrong in front of their residence on July 22, waiting for their landlord to collect the rent. Armstrong was braiding her hair, and Lee was looking down at his phone. Other people were outside, and Lee heard a commotion, but did not look up. Jones approached them and said "MF, empty your pocket." Lee identified Jones in court. Lee looked up and saw Jones pointing a gun at Armstrong. Lee stood and put his hands up. The gun was a black nine-millimeter automatic. Another man approached with a shirt covering his face with his eyes exposed. Lee could not describe that man. The man reached into Armstrong's pocket and took her money, then reached behind her and grabbed her phone. The man also reached into

Lee's pocket, but he did not have any money or other property on him. Thus, nothing was taken from Lee. Lee and Armstrong did not give the offenders permission to take their property.

¶ 24 Lee viewed a lineup on August 13. Modelski told Lee that the offenders may or may not be in the lineup, that he was not required to identify anyone, and that Modelski did not necessarily know who the offenders were. Lee signed an advisory form acknowledging those propositions. Lee identified Jones, who was in the first position, as the man with the gun. In court, Lee viewed a photograph of the lineup and pointed out Jones as the man with the gun.

¶ 25 The State presented a stipulation that Officer Murphy would testify that the photo array shown to Armstrong included defendant's photo, but did not include a photo of Jones. When Armstrong viewed the photo array, Jones had not yet been identified as a suspect in this case.

¶ 26 Defendants presented a stipulation that the descriptions given by the witnesses contained in the police reports did not mention a star tattoo, or any other tattoos, as to either defendant. Defendants presented a second stipulation that the general progress report written by the detective who interviewed Suggs did not indicate that Suggs told him that Jones said he was not going to rob a woman; however, that information was included in the final supplemental report.

¶ 27 Defendants asked the court to observe that both of them have the same star tattoo on their necks.

¶ 28 The trial court stated that all of the State's witnesses were strong witnesses. The court found that when it considered the cumulative evidence, it was "very clear" that the defendants were the two men responsible for the offenses in this case. The court found, however, that it was not proved beyond a reasonable doubt that defendants used firearms during the offenses. The



court further found that, although Jones was marginally culpable for the armed robbery of Suggs, he disengaged from that offense when he said he did not rob “bitches” and walked away.

¶ 29 The trial court found defendants not guilty of armed robbery while armed with a firearm, attempted armed robbery of Lee, and aggravated unlawful restraint. The court also found Jones not guilty of the armed robbery of Suggs, finding that he had disengaged from that offense. The court found both defendants guilty of the armed robbery of Armstrong while armed with a dangerous weapon other than a firearm, specifically, a bludgeon. In addition, the court found defendant guilty of the armed robbery of Suggs while armed with a bludgeon. The court merged defendant’s two armed robbery convictions and sentenced him to 10 years’ imprisonment.

¶ 30 On appeal, defendant contends that the trial court erred when it denied his motion to suppress his identification because the photo arrays and lineup were unduly suggestive. Defendant claims the photo arrays were suggestive because they were both conducted by Officer Murphy, and thus, the process likely involved suggestive behavior. He further argues that it was suggestive to include him and Jones in the same array shown to Suggs, and notes that a new statute now requires separate arrays. Defendant also claims that the lineup was suggestive because he and Jones were the only participants with star tattoos on their necks, they were included in the same lineup with only three fillers, two of the fillers were grossly dissimilar in appearance, Suggs and Armstrong viewed his photo in arrays prior to the lineup, and Modelski did not change the positions of the participants when each victim viewed the lineup. Defendant argues that the police should have covered the necks of all of the participants because the star tattoos created a perception of association between him and Jones.

¶ 31 The State responds that the court's denial of defendant's motion to suppress was not against the manifest weight of the evidence because the photo arrays and lineup were not unduly suggestive. The State argues that all of the participants in the lineup had similar physical characteristics regarding their height, weight, skin tone and age. The State points out that Suggs recognized defendant and knew him by his first name. Suggs also testified that the star tattoo had become common in the neighborhood. The State notes that all three victims viewed the lineup separately and signed advisory forms acknowledging that the offender may not be in the lineup, and that they were not required to identify anyone.

¶ 32 As a threshold matter, we acknowledge that a new statute became effective January 1, 2015, which provides procedures for conducting photo arrays and lineups. See 725 ILCS 5/107A-2 (West 2015). In this case, however, the photo arrays were conducted in July and August 2013, and the lineup was held on August 13, 2013, more than a year prior to the statute becoming effective. We therefore decline to analyze the procedures used in this case by comparing them to statutory requirements that were not effect at that time.

¶ 33 Our review of the trial court's ruling on a motion to suppress presents questions of both fact and law. *People v. McCarty*, 223 Ill. 2d 109, 148 (2006). The trial court's factual determination that an identification procedure was not unduly suggestive will not be disturbed on review unless it is against the manifest weight of the evidence. *People v. Jones*, 2017 IL App (1st) 143766, ¶ 29. However, the trial court's ultimate ruling on a motion to suppress is a question of law which we review *de novo*. *People v. Close*, 238 Ill. 2d 497, 504 (2010).

¶ 34 A witness' pretrial identification of an accused must be suppressed only where the procedure was unnecessarily suggestive, and there was a substantial likelihood of

misidentification. *People v. Lawson*, 2015 IL App (1st) 120751, ¶ 39. It is defendant's burden to prove that the pretrial identification was impermissibly suggestive. *People v. Brooks*, 187 Ill. 2d 91, 126 (1999). If he does so, the burden then shifts to the State to show by clear and convincing evidence that the witness identified defendant based on his or her own independent recollection of the offense. *Id.*

¶ 35 When reviewing a claim of an unduly suggestive identification, the court must consider the totality of the circumstances. *Lawson*, 2015 IL App (1st) 120751, ¶ 39. The court may also consider the evidence presented at trial as well as the suppression hearing. *Id.* Courts look at the strength of suggestion made to the witnesses through some specific activity on the part of the police which places a "spotlight" on an individual. *People v. Gabriel*, 398 Ill. App. 3d 332, 349 (2010) (citing *People v. Johnson*, 149 Ill. 2d 118, 147 (1992)). "Participants in a lineup are not required to be physically identical." *People v. Love*, 377 Ill. App. 3d 306, 311 (2007). Differences in the appearances of the participants go to the weight of a witness' identification, not to its admissibility. *People v. Jones*, 2012 IL App (1st) 100527, ¶ 24.

¶ 36 Here, the record reveals that the trial court's determination that the photo arrays and lineup were not unduly suggestive was not against the manifest weight of the evidence. First, nothing in the record indicates that the photo arrays shown to Suggs and Armstrong were suggestive. All of the men in both photo arrays appear to be the same age with similar complexions, very similar thin moustaches, and nearly identical short hairstyles. There is no indication that either witness identified defendant based on his tattoo. As pointed out by defense counsel at the suppression hearing, defendant's neck tattoo is not visible in the photo arrays because his head is tilted forward. Moreover, Suggs knew defendant from the neighborhood by

his first name, and she recognized him during the robbery. Furthermore, Armstrong testified that defendant wore his T-shirt covering his face from the nose down, and she was not able to see his neck. She, therefore, would not have seen his tattoo during the robbery.

¶ 37 Similarly, nothing in the record indicates that the lineup was suggestive. All of the men are seated with their hands together in front of them. All of the men appear to be of the same age and height, with similar complexions and body weight. Four of the five men have nearly identical short hairstyles. Although one man appears to be wearing braids or dreadlocks, his other physical characteristics are similar to the other men. The police were not required to find men who were physically identical. *Love*, 377 Ill. App. 3d at 311. In addition, all three witnesses were advised that the offenders may or may not be in the lineup, that they were not required to identify anyone, and that the police did not necessarily know who the offenders were.

¶ 38 Defendant's argument that he was identified based on the star tattoo on his neck, and that the witnesses associated him and Jones because of their matching tattoos, is unpersuasive. As stated above, Suggs testified that she knew defendant from the neighborhood by his first name, and she recognized him during the robbery. Prior to the robbery, Suggs knew that defendant had the star tattoo on his neck because she had observed it on previous occasions. She testified that particular tattoo had become common in her neighborhood. Suggs' testimony shows that she identified defendant based on her recognition of him, not based on his tattoo.

¶ 39 Armstrong testified that she identified both defendant and Jones in the lineup, though Modelski testified that she only identified Jones. Lee only identified Jones, and never identified defendant. Again, Armstrong testified that during the robbery, defendant had his shirt pulled up covering his face from the nose down, and she could not see his neck. She, therefore, would not

have seen his tattoo during the robbery, and did not identify him on that basis. Significantly, the description of the offenders that the witnesses gave to police did not include the star tattoo. Thus, there is no indication that the police included defendant or Jones in the lineup because of their tattoos.

¶ 40 Nor is there any indication that the lineup was suggestive because Modelski did not change the positions of the participants when each victim viewed the lineup. Modelski testified that each of the three witnesses viewed the lineup separately, one at a time. Lee viewed the lineup first, and thereafter, was placed in a separate room isolated from Armstrong and Suggs, and was prohibited from communicating with them before they each viewed the lineup. Moreover, according to Modelski, Armstrong and Lee only identified Jones during the lineup. Therefore, the fact that defendant remained in the same position for all three lineups was of no consequence.

¶ 41 When considering the totality of the circumstances, we find that the trial court's determination that the lineup was not unduly suggestive was not against the manifest weight of the evidence. *Lawson*, 2015 IL App (1st) 120751, ¶ 39. Because the trial court found that the photo arrays and lineup were not suggestive, the burden never shifted to the State to prove that the witnesses had independent recollections of defendant from the offense. *Brooks*, 187 Ill. 2d at 126. Based on this record, we conclude that the trial court's denial of defendant's motion to suppress the identification was proper.

¶ 42 Defendant next contends that the State failed to prove him guilty beyond a reasonable doubt because the identification testimony from Suggs and Armstrong was inaccurate and

unreliable. Defendant also contends that the evidence did not establish that the offender was armed with a dangerous weapon.

¶ 43 When defendant claims that the evidence is insufficient to sustain his conviction, this court must determine whether, after viewing the evidence in the light most favorable to the State, any rational trier of fact could have found the elements of the offense proved beyond a reasonable doubt. *People v. Brown*, 2013 IL 114196, ¶ 48 (citing *Jackson v. Virginia*, 443 U.S. 307, 318-19 (1979)). This standard applies whether the evidence is direct or circumstantial, and does not allow this court to substitute its judgment for that of the fact finder on issues involving witness credibility and the weight of the evidence. *People v. Jackson*, 232 Ill. 2d 246, 280-81 (2009). Under this standard, all reasonable inferences from the evidence must be allowed in favor of the State. *People v. Lloyd*, 2013 IL 113510, ¶ 42.

¶ 44 In a bench trial, the trial court is responsible for determining the credibility of the witnesses, weighing the evidence, resolving conflicts in the evidence, and drawing reasonable inferences from therein. *People v. Siguenza-Brito*, 235 Ill. 2d 213, 228 (2009). We will not reverse a criminal conviction based upon insufficient evidence unless the evidence is so improbable or unsatisfactory that there is reasonable doubt as to defendant's guilt (*People v. Beauchamp*, 241 Ill. 2d 1, 8 (2011)), nor simply because defendant claims that a witness was not credible or that the evidence was contradictory (*Siguenza-Brito*, 235 Ill. 2d at 228). The testimony of a single witness, if positive and credible, is sufficient to sustain a conviction. *Siguenza-Brito*, 235 Ill. 2d at 228.

¶ 45 To prove defendant guilty of armed robbery in this case, the State was required to show that he knowingly took a phone and money from Suggs, and a phone and money order from

Armstrong, by the use of force or by threatening the imminent use of force while being armed with a dangerous weapon other than a firearm, specifically, a bludgeon. 720 ILCS 5/18-2(a)(1) (West 2012).

¶ 46 Defendant contends that the identification testimony from Suggs and Armstrong was inaccurate and unreliable because neither of them had a sufficient opportunity to observe the offenders. Defendant argues that the robberies occurred in a matter of seconds, and that both offenders had their faces covered with shirts. He further argues that the presence of a gun would have diminished their attention on the offenders, and that the description given to police was vague and general.

¶ 47 Identification of defendant by a single witness is sufficient to sustain a conviction where the witness viewed defendant under circumstances that permitted a positive identification. *People v. Slim*, 127 Ill. 2d 302, 307 (1989). In assessing identification testimony, the court considers: (1) the witness' opportunity to view the offender at the time of the offense; (2) her degree of attention; (3) the accuracy of the witness' prior description of the offender; (4) the witness' level of certainty at the identification confrontation; and (5) the length of time between the offense and the identification confrontation. *People v. Lewis*, 165 Ill. 2d 305, 356 (1995).

¶ 48 Here, the record shows that the factors support the trial court's finding that the identification testimony from Suggs and Armstrong was credible. The evidence demonstrates that defendant was in close proximity to both women during the robberies. Defendant came up behind Suggs and demanded her property. Suggs looked over her shoulder and recognized defendant, whom she knew by his first name from the neighborhood. When Suggs turned and faced defendant, he reached into her jacket pocket and took her phone and money. Armstrong

testified that defendant and Jones approached her and Lee as they sat on the stoop. Jones pointed a gun at Armstrong's face, less than a foot away, and ordered them to empty their pockets. As Armstrong and Lee stood up, defendant grabbed her phone off the stoop where it had been sitting next to her, with the money order inside the phone case. Armstrong expressly testified that although she could not see defendant's nose, neck or lips, she remembered his eyes. The evidence thus shows that both Suggs and Armstrong had a very good opportunity to closely view defendant, and their degree of attention was high. *Id.*

¶ 49 Modelski testified at the suppression hearing that the description of the two offenders given to police was “[t]wo male blacks, approximately 5’8”, approximately 120 pounds, approximately 18 to 20 years old, black hair.” At trial, however, there was no testimony from any police officers regarding the witnesses’ description of the offenders, and Armstrong recounted her description in only general terms. Because there was no evidence presented at trial regarding the accuracy of the prior description, we cannot assess its accuracy. Therefore, we cannot say that the prior description favors either party.

¶ 50 The record further shows, however, that both Suggs and Armstrong identified defendant in photo arrays. Armstrong viewed the photo array on July 24, just two days after the robbery occurred. Suggs viewed the photo array on August 10, less than three weeks after the robbery. Both women claimed to have identified defendant in the lineup on August 13, though Modelski testified at the suppression hearing that Armstrong only identified Jones. At trial, both women identified defendant in court, and both viewed photographs and confirmed their prior identifications with certainty. *Id.*



¶ 51 The determination of the credibility of Suggs' and Armstrong's identification testimony was a matter entirely within the province of the trial court which heard and observed them testify. *Siguenza-Brito*, 235 Ill. 2d at 228. The trial court found that the State's witnesses were strong witnesses, and that it was "very clear" that the defendants were the two men responsible for the armed robberies in this case. We find no reason to disturb that determination.

¶ 52 Finally, defendant contends that the evidence did not establish that the offender was armed with a dangerous weapon because no weapon was recovered, and there was no evidence that the alleged gun could be used as a bludgeon. Defendant points out that the trial court found the evidence insufficient to prove the object was an actual firearm. He asserts that the witnesses' subjective belief that the object was a gun was not enough to prove it was a dangerous weapon, and there is no evidence that the offenders threatened to use it as a bludgeon.

¶ 53 Our supreme court has held that although there is not a mandatory presumption that any gun is a dangerous weapon, the trier of fact may infer the dangerousness from the evidence. *People v. Ross*, 229 Ill. 2d 255, 275-76 (2008). The State may prove that a gun is a dangerous weapon by presenting evidence that it was capable of being used as a club or bludgeon. *Id.* at 276. In *Ross*, the court held that the evidence was insufficient to prove that the pellet gun used in the offense was a dangerous weapon where the State never presented the gun or a photograph of the gun at trial, there was no evidence it was loaded, there was no evidence it had been brandished as a bludgeon, and there was no evidence regarding its weight or composition. *Id.* at 276-77.

¶ 54 Here, viewed in the light most favorable to the State, we find that the evidence was sufficient for the trial court to infer that the object used was a dangerous weapon capable of

being used as a bludgeon. All three witnesses testified that defendants were armed with guns. Suggs testified that defendant had a black gun, and that Jones was holding a gun, but acknowledged that she was not familiar with guns. Lee testified that the gun Jones pointed at Armstrong was a black nine-millimeter automatic. Armstrong testified, however, that Jones pointed the gun directly at her face, less than a foot away. She testified that it was a “big black gun,” and significantly, that it was made of metal and appeared to be real. Thus, in this case, unlike *Ross*, Armstrong testified to the composition of one of the guns, which she viewed from less than a foot away, as being big and made of metal. From this testimony, the trial court could infer that the large metal object could be used as a bludgeon, and therefore, was a dangerous weapon.

¶ 55 For these reasons, we affirm the judgment of the circuit court of Cook County.

¶ 56 Affirmed.