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2012 IL App (3d) 110501-U

Order filed December 13, 2012

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2012

THE PEOPLE OF THE STATE OF ILLINOIS,	) Appeal from the Circuit Court
	) of the 10th Judicial Circuit,
Plaintiff-Appellee,	) Peoria County, Illinois,
	)
v.	) Appeal No. 3-11-0501
	) Circuit No. 09-CF-1017
	)
ANTHONY L. PARKS,	) Honorable
	) Stephen A. Kouri and James E. Shadid,
Defendant-Appellant.	) Judges, Presiding.

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PRESIDING JUSTICE SCHMIDT delivered the judgment of the court.  
Justices Lytton and O'Brien concurred in the judgment.

**ORDER**

¶ 1 *Held:* There was sufficient evidence to find defendant guilty beyond a reasonable doubt of armed robbery while armed with a firearm, based upon a theory of accountability.

¶ 2 Defendant, Anthony L. Parks, was convicted after a jury trial of two counts of armed robbery with a firearm (720 ILCS 5/18-2(a)(2) (West 2008)). The trial court sentenced defendant to 30 years' imprisonment. On appeal, defendant argues that the State failed to prove that he was legally accountable for those armed with a firearm during the robbery. We affirm.

¶ 3

## FACTS

¶ 4 Defendant was charged along with two codefendants, James Ford and Jeannie Kircher, of two counts of armed robbery with a firearm (720 ILCS 5/18-2(a)(2) (West 2008)). The trial court granted the defendants' motions to sever the codefendants' cases, and defendant's case proceeded to a jury trial.

¶ 5 At trial, Chillicothe Police Sergeant Daniel Adcock testified that on the morning of March 31, 2009, he received a call about an armed robbery at the Circle K gas station in Chillicothe. Adcock traveled to the Circle K and spoke to Christopher Schmidt, a Circle K customer who had witnessed the robbery. Schmidt told Adcock that the gas station had been robbed and that the suspects had left on foot heading westbound. Witness Joseph Butler testified that he was paying for coffee at the cash register when three masked men entered the gas station. One man put a gun to Butler's face and took his wallet. Another man searched the store for other witnesses. The third man pointed a gun at Schmidt to subdue him. The man searching the store then went behind the counter, forced the attendant to open the cash register, and took the money from the register and the attendant's purse. As the three men left the gas station, one of them discharged a firearm into the ceiling. Adcock later found a spent .45-caliber shell casing on the ground.

¶ 6 Amanda Blumier testified that in the early morning of March 31, 2009, she was at home with her stepsister, Kircher; defendant; Ford; and a man named Deangelo Lindsey. The five of them got in a white minivan driven by Kircher, and traveled to a friend's house in Chillicothe. On the way back from the friend's house, they stopped at the Circle K gas station in Chillicothe; Blumier and Kircher went inside. After the group left the Circle K, the three men—defendant,

Ford, and Lindsey—began talking about robbing the gas station. Kircher parked the van in an alley a few blocks from the gas station, and defendant, Ford, and Lindsey exited the van.

Blumier testified she was "pretty sure they were going to the gas station." The men returned after about 20 minutes and told Kircher in an excited manner to leave. Blumier heard defendant say that there was only about \$40 in the purse.

¶ 7 Kircher testified that when the men returned to the van, she saw them pulling off masks. As Kircher drove away, she heard the back door of the van open and saw a purse or bag fly out. Defendant later told Kircher that his take from the robbery was \$35. Adcock viewed the store's surveillance footage and observed three men performing the robbery. Two of the three men displayed guns; one did not. None of the witnesses could identify whether defendant was one of the men with a gun. Because the State could not prove through direct evidence that defendant carried a firearm, it proceeded on a theory of accountability to establish that element of armed robbery.

¶ 8 At the close of the State's evidence, defendant moved for a direct verdict on the basis of insufficient evidence. The trial court denied the motion.

¶ 9 The jury returned a verdict of guilty on both counts, along with a factual finding that "the allegation that the defendant or one for whose conduct he is legally responsible was armed with a firearm was proven." Defendant filed two separate motions for a new trial, arguing that the evidence was insufficient and that trial counsel was ineffective. Both motions were denied. Defendant appeals.

¶ 10 ANALYSIS

¶ 11 Defendant argues that the State provided insufficient evidence to support the jury's

finding that defendant was armed with a firearm.

¶ 12 When considering a challenge to the sufficiency of the evidence, the relevant inquiry is whether, after viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could have found the essential elements of the crime beyond a reasonable doubt.

*People v. Pollock*, 202 Ill. 2d 189 (2002). A conviction will be reversed where the evidence is so unreasonable, improbable, or unsatisfactory that it justifies a reasonable doubt of defendant's guilt. *People v. Wheeler*, 226 Ill. 2d 92 (2007).

¶ 13 Defendant's conviction for armed robbery requires proof that he "carrie[d] on or about his or her person or [was] otherwise armed with a firearm." 720 ILCS 5/18-2(a)(2) (West 2008).

The State relied on an accountability theory (720 ILCS 5/5-1 (West 2008)) to establish that element of armed robbery. Accountability allows the conduct of another to satisfy elements of a defendant's crime when the defendant is legally accountable for the other's conduct. 720 ILCS 5/5-1 (West 2008). In the present case, the jury found that "one for whose conduct [defendant] is legally responsible was armed with a firearm." Defendant argues that there was insufficient evidence for the jury to reach such a finding beyond a reasonable doubt.

¶ 14 A defendant is legally accountable for the conduct of another person when "[e]ither before or during the commission of an offense, and with the intent to promote or facilitate such commission, he solicits, aids, abets, agrees or attempts to aid, such other person in the planning or commission of the offense." 720 ILCS 5/5-2(c) (West 2008). Factors that may be considered in establishing accountability include: (1) presence at the scene without disapproval; (2) flight from the scene; (3) failure to report the crime; (4) close affiliation with the codefendant afterward; (5) sharing the proceeds of the criminal act; and (6) destroying or disposing of

evidence. *People v. Taylor*, 164 Ill. 2d 131 (1995).

¶ 15 In the present case, defendant meets five out of the six *Taylor* factors: (1) he was present at the scene and participated in the robbery; (2) he fled from the scene; (3) he failed to report the crime; (4) he was in close affiliation with the other perpetrators during the flight; and (5) he shared in the proceeds of the robbery. The three men who robbed the Circle K actively participated in the robbery. Two of the men held the witnesses at gunpoint, while the third took the money from the cash register. One of the robbers fired a shot into the ceiling. Whether or not defendant was one of the men carrying a firearm, he is accountable for the conduct of the men who did. It was not irrational for the jury to find beyond a reasonable doubt that defendant was accountable for the conduct of his codefendants in carrying a firearm.

¶ 16

#### CONCLUSION

¶ 17 The judgment of the Peoria County circuit court is affirmed.

¶ 18 Affirmed.