

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT JACKSON

SEPTEMBER SESSION, 1996

| | | |
|---------------------|---|--------------------------------|
| STATE OF TENNESSEE, |) | C.C.A. NO. 02C01-9507-CR-00205 |
| |) | |
| Appellee, |) | |
| |) | |
| VS. |) | SHELBY COUNTY |
| |) | |
| ISAAC WILLIAMS, |) | HON. JOSEPH B. DAILEY |
| |) | JUDGE |
| |) | |
| Appellant. |) | (Aggravated Robbery) |

ON APPEAL FROM THE JUDGMENT OF THE
CRIMINAL COURT OF SHELBY COUNTY

FOR THE APPELLANT:

A.C. WHARTON
Public Defender

W. MARK WARD
Assistant Public Defender
147 Jefferson, Suite 900
Memphis, TN 38103

FOR THE APPELLEE:

CHARLES W. BURSON
Attorney General and Reporter

CLINTON J. MORGAN
Counsel for the State
450 James Robertson Parkway
Nashville, TN 37243-0493

JOHN W. PIEROTTI
District Attorney General

DAVID HENRY
Assistant District Attorney General
Third Floor, Criminal Justice Complex
201 Poplar
Memphis, TN 38103

OPINION FILED _____

AFFIRMED

DAVID H. WELLES, JUDGE

OPINION

This is an appeal pursuant to Rule 3 of the Tennessee Rules of Appellate Procedure. The Defendant was indicted for the offense of aggravated robbery.¹ He waived his right to a jury and his case was heard at a bench trial on his plea of not guilty. After hearing the evidence, the trial judge found the Defendant guilty as charged. On this appeal, the Defendant argues that the evidence of his identity as the culprit is insufficient to support the finding of guilt beyond a reasonable doubt. We disagree and affirm the judgment of the trial court.

In the early morning hours of March 24, 1992, a convenience store in Memphis, Tennessee was robbed at gunpoint. Two men entered the store. One man held a gun on the clerk while the other man jumped over and got behind the counter. After getting a small amount of money from the cash register, the robber who had jumped behind the counter saw himself on the TV monitor which was connected to the store's video surveillance camera. The robber grabbed the TV monitor and threw it to the floor. The two robbers then fled from the store. The police were notified and when they arrived, the TV monitor was dusted for fingerprints. Two separate fingerprints taken from the TV monitor were eventually identified as being the Defendant's fingerprints. The robber who held the shotgun never moved within view of the surveillance camera, but the camera did record the image of the robber who jumped behind the counter and threw the TV monitor to the floor. The store clerk was unable to positively identify either of the robbers. The only proof against the Defendant other than the fingerprints was

¹Tenn. Code Ann. § 39-13-402.

the video recorded by the surveillance camera which was viewed by the trial judge. After hearing this evidence, the trial judge found that the State had proved the Defendant's guilt of aggravated robbery beyond a reasonable doubt.

When an accused challenges the sufficiency of the convicting evidence, the standard is whether, after reviewing 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. Jackson v. Virginia, 443 U.S. 307, 319 (1979). Questions concerning the credibility of the witnesses, the weight and value to be given the evidence, as well as all factual issues raised by the evidence, are resolved by the trier of fact, not this court. State v. Pappas, 754 S.W.2d 620, 623 (Tenn. Crim. App.), perm. to appeal denied, id. (Tenn. 1987). Nor may this court reweigh or reevaluate the evidence. State v. Cabbage, 571 S.W.2d 832, 835 (Tenn. 1978). On appeal, the State is entitled to the strongest legitimate view of the evidence and all inferences therefrom. Cabbage, 571 S.W.2d at 835. Because a verdict of guilt removes the presumption of innocence and replaces it with a presumption of guilt, the accused has the burden in this court of illustrating why the evidence is insufficient to support the verdict returned by the trier of fact. State v. Tuggle, 639 S.W.2d 913, 914 (Tenn. 1982); Grace, 493 S.W.2d at 476.

The Defendant specifically argues that the proof is insufficient to identify him as being one of the robbers of the store. The State clearly established that the Defendant's fingerprints were found on the TV monitor which had been grabbed by the robber and thrown to the floor of the store. The clerk testified that it would not have been possible for anyone to touch the TV monitor unless they

came behind the counter as the robber did. The trial judge found the fingerprint evidence to be “awfully compelling.” We agree.

The trial judge also found that the video provided some corroboration even though the judge could not positively identify the Defendant as the same individual appearing on the video. The judge noted that the video corroborated the fact that the robber picked up the monitor and threw it to the floor. The judge also noted that the individual who appeared on the video resembled the Defendant “very, very much. . . [he is] very similar in size and build and appearance, the silhouette as reflected in some of those still photographs, the facial features -- all of the physical characteristics of the individual in the video and in the still photographs . . . are strikingly similar to Mr. Isaac Williams in court today.”

Our review of this record leads us to conclude that the evidence is sufficient to support the findings by the trier of fact of guilt beyond a reasonable doubt. Accordingly, the judgment of the trial court is affirmed.

DAVID H. WELLES, JUDGE

CONCUR:

JOE B. JONES, PRESIDING JUDGE

JERRY L. SMITH, JUDGE