

MEMORANDUM DECISION

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ATTORNEY FOR APPELLANT

John L. Tompkins
Tompkins Law
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE

Theodore E. Rokita
Attorney General of Indiana

Steven J. Hosler
Deputy Attorney General
Indianapolis, Indiana

IN THE COURT OF APPEALS OF INDIANA

Emad Samir Rezk Ayad,
Appellant-Defendant,

v.

State of Indiana,
Appellee-Plaintiff.

June 8, 2023

Court of Appeals Case No.
22A-CR-2669

Appeal from the Hamilton Circuit
Court

The Hon. Paul A. Felix, Judge

Trial Court Cause No.
29C01-2005-F3-2845

Memorandum Decision by Judge Bradford
Judges Riley and Weissmann concur.

Bradford, Judge.

Case Summary

- [1] In May of 2020, A.G. snuck out of her parents' Carmel house to meet Connor Bucklin Robbins. The duo drove to a park in Westfield, and, as they sat in the back seat of Robbins's vehicle, were approached by Emad Samir Rezk Ayad, who knocked on the window. A.G. opened the door, and, when Robbins climbed into the front seat to silence the vehicle's alarm, Ayad entered and sat next to A.G. in the back seat. Ayad, while holding a knife with a two-inch blade on his knee pointing at A.G., told her and Robbins that he would not leave until A.G. had kissed him. A.G. eventually did kiss Ayad, but he did not leave until A.G. told him that her parents were tracking her through her telephone. Before Ayad left, he took a bag belonging to Robbins from the vehicle. The State eventually charged Ayad with Level 3 felony robbery and three other charges. A jury found Ayad guilty as charged, and the trial court sentenced him to an aggregate sentence of ten years of incarceration with two years suspended to probation.

Facts and Procedural History

- [2] On May 7, 2020, eighteen-year-old A.G. lived with her parents in Carmel. After A.G.'s parents went to sleep, A.G. snuck out, Robbins picked her up, and they drove to Raymond Worth Park in Westfield. After a short walk, A.G. and Robbins returned to Robbins's vehicle, sat in the back seat, talked for a while, and kissed. At some point, a car pulled into the otherwise empty parking lot and parked next to Robbins's vehicle. Ayad exited the car, approached

Robbins's vehicle, and began to tap on the right rear passenger door. A.G. opened the door and Ayad stepped into the space between the car door and the car. When Robbins climbed into the front seat to deactivate his vehicle's alarm, Ayad sat down in the seat next to A.G. Robbins and A.G. noticed that Ayad had a pocketknife with an approximately two-inch blade on his knee pointed at A.G.'s stomach. Robbins and A.G. asked Ayad to leave the car, but, rather than leaving, Ayad told A.G. that he was not going to leave until she had kissed him. A.G. saw that Ayad was wearing a nametag that said, "E-M-A-D." Tr. Vol. III p. 32.

[3] After around five to ten minutes, A.G. decided to kiss Ayad in hopes that he would leave. When A.G. refused to kiss Ayad again, he became angry, grabbed her shorts, and pulled them, tearing a hole in them. A.G. told Ayad that her parents were tracking her location through her telephone and would call the police or come to the park if she was not home by a certain time. Ayad exited the back seat, opened the front passenger door, looked around the center console of the car, and took a blue bag with drawstrings belonging to Robbins before leaving.

[4] The State ultimately charged Ayad with two counts of Level 3 felony criminal confinement, Level 3 felony robbery, and Level 4 felony sexual battery. The jury found Ayad guilty as charged, and the trial court sentenced him to an aggregate sentence of ten years of incarceration with two years suspended to probation.

Discussion and Decision

[5] Ayad contends that the State failed to produce sufficient evidence to sustain his conviction for Level 3 felony robbery.¹ “When reviewing the sufficiency of the evidence to support a conviction, appellate courts must consider only the probative evidence and reasonable inferences supporting the verdict.” *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). We will neither assess witness credibility nor “weigh the evidence to determine whether it is sufficient to support a conviction.” *Id.* When presented with conflicting evidence, we “must consider it most favorably to the trial court’s ruling.” *Id.* We will affirm the conviction “unless no reasonable fact-finder could find the elements of the crime proven beyond a reasonable doubt.” *Id.* “It is therefore not necessary that the evidence overcome every reasonable hypothesis of innocence.” *Id.* “The evidence is sufficient if an inference may reasonably be drawn from it to support the verdict.” *Id.* To convict Ayad of Level 3 felony robbery, the State was required to prove that he intentionally or knowingly had taken property from Robbins while using or threatening the use of force or putting A.G. and/or Robbins in fear while armed with a deadly weapon. Ind. Code § 35-42-5-1(a).

[6] We have little hesitation in concluding that the State produced sufficient evidence to support a finding that Ayad was armed with a pocketknife when he took Robbins’s bag. The State presented evidence that Ayad had shown A.G.

¹ Ayad does not challenge his convictions for two counts of Level 3 felony criminal confinement and Level 4 felony sexual battery.

and Robbins the pocketknife while confining A.G. and Robbins and demanding a kiss from A.G., and there was no evidence presented that Ayad had discarded it at any point. Ayad emphasizes that there is no evidence that he had still been showing the knife when he reached in and stole the bag, but this does not help him. Just because Ayad may have put his knife into a pocket or otherwise concealed it does not mean that he was not still armed. Indeed, a defendant need not ever show a weapon to the victim in order for a jury to conclude that he was armed, so long as he communicates that he is. *See Attkisson v. State*, 190 N.E.3d 447, 453 (Ind. Ct. App. 2022) (“Attkisson’s statement and implication that he had a weapon is itself evidence that he was in fact armed.”) (citing *Gray v. State*, 903 N.E.2d 940, 945 (Ind. 2009)), *trans. denied*. Ayad communicated that he was armed by showing A.G. and Robbins his knife, and, under the circumstances, the jury was free to infer that Ayad was still armed when he took the bag from Robbins’s vehicle.

- [7] Ayad also draws our attention to three cases, all of which address the circumstances under which sentences for different convictions may be consecutive if there are no aggravating circumstances and the criminal conduct was not separate and independent. *See O’Connell v. State*, 742 N.E.2d 943, 952 (Ind. 2001); *Noojin v. State*, 730 N.E.2d 672, 679 (Ind. 2000); *Little v. State*, 475 N.E.2d 677, 686 (Ind. 1985). None of these cases, however, concludes that a conviction was unsupported by sufficient evidence, and, consequently, they do not help Ayad. We conclude that the State produced sufficient evidence to sustain Ayad’s conviction for Level 3 felony robbery.

[8] We affirm the judgment of the trial court.

Riley, J., and Weissmann, J., concur.