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IN THE
COURT OF APPEALS OF INDIANA

JARROD EUGENE RODRIGUEZ,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 79A02-1012-CR-1406
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE TIPPECANOE SUPERIOR COURT
The Honorable Thomas H. Busch, Judge
Cause No. 79D02-0907-FB-29

December 30, 2011

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Jarrod Rodriguez appeals his conviction of Class B felony robbery while armed with a deadly weapon.[1] We affirm.

FACTS AND PROCEDURAL HISTORY

On July 1, 2009, Rodriguez asked his father, Eugene Hall, to drive him and Edward Mercer to Lafayette, Indiana in exchange for $100.00 and gas money. The purpose of the trip was to buy "some brand new 24 inch davins ss3[2] with 255/30 tires," (State's Ex. 15) (errors in original), from Cortney Robinson and Kyle Bostic.

Rodriguez, Hall, and Mercer arrived in Hall's van. Robinson and Bostic were in a Chevrolet Tahoe. Rodriguez and Mercer exited the van and met with Robinson and Bostic. After determining the rims would fit the van's wheels, the parties agreed upon a price of $3,100.00. The five men, including Hall, loaded the rims into the van. Hall then returned to his driver's seat.

Rodriguez handed the money to Robinson, who gave half of the money to Bostic. While Robinson and Bostic were counting their money, Mercer came up behind Bostic and put a gun to his neck and said, "Give me the MF'n money." (Tr. at 264.) Rodriguez also pulled a gun, pointed it at Robinson's face, and demanded money. Robinson gave Rodriguez the money in his possession. Bostic attempted to flee, and the money he was holding flew into the air.

Rodriguez and Mercer returned to the van, and Bostic began to fire shots at it. Mercer

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[1] Ind. Code § 35-42-5-1.

[2] "[D]avins ss3" were referenced in the State's charging information as "Davin Dub spinners/floaters, rims, tires." (App. at 13.)

returned fire from the rear passenger door, and Rodriguez returned fire from the front passenger door. Hall headed toward Interstate 65. An employee of a nearby Subway, Wade Claiborne, saw the gunfire and followed Hall's van while calling 911. Claiborne told the police someone threw a gun out of the passenger side window of the van while it was driving down the highway. Police later retrieved a gun from the same area.

Police pulled the van over and Rodriguez and Mercer told the police they were the victims of a crime. The police found $117.00 on Rodriguez, and $2,035.00 on Mercer. Meanwhile, police stopped Bostic and Robinson in the parking lot where the incident occurred. They released Bostic and Robinson after confirming their story regarding the sale of the rims.

On July 16, 2009, the State charged Rodriguez, Mercer, and Hall with two counts of Class B felony robbery while armed with a deadly weapon, one count of Class B felony conspiracy to commit robbery,[3] and one count of Class D felony theft.[4] The State charged Rodriguez with Class C felony aiding, inducing, or causing intimidation.[5] In July 2010, Hall agreed to plead guilty to Class D felony assisting a criminal[6] in exchange for his testimony at the trial of Rodriguez and Mercer.

After a joint bench trial, Rodriguez was found guilty of two counts of Class B felony robbery while armed with a deadly weapon, two counts of Class C felony aiding, inducing, or

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[3] Ind. Code §§ 35-42-5-1 (robbery) and 35-41-5-2 (conspiracy).
[4] Ind. Code § 35-43-4-2.
[5] Ind. Code §§ 35-41-2-4 (aiding, inducing, or causing an offense) and 35-45-2-1 (intimidation).
[6] Ind. Code § 35-44-3-2.

causing intimidation, and one count of Class D felony theft. The trial court determined the other counts merged, and entered a conviction only of two counts of Class B felony robbery while armed with a deadly weapon.

DISCUSSION AND DECISION

Rodriguez argues the State did not present sufficient evidence he was involved in the crime. When reviewing the sufficiency of the evidence to support a conviction, we consider only the probative evidence and reasonable inferences supporting the trial court's decision. *Drane v. State*, 867 N.E.2d 144, 146 (Ind. 2007). It is the fact-finder's role, and not ours, to assess witness credibility and weigh the evidence to determine whether it is sufficient to support a conviction. *Id.* To preserve this structure, when we are confronted with conflicting evidence, we consider it most favorably to the trial court's ruling. *Id.* We affirm a 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; rather, the evidence is sufficient if an inference reasonably may be drawn from it to support the trial court's decision. *Id.* at 147.

Class B felony robbery while armed with a deadly weapon occurs when a person, while armed with a deadly weapon, "knowingly or intentionally takes property from another person or from the presence of another person: (1) by using or threatening the use of force on any person; or (2) by putting any person in fear[.]" Ind. Code § 35-42-5-1. As charged herein, the State was required to prove Rodriguez took either cash or Bostic's rims, the two items stolen during the crime.

Rodriguez argues the trial court largely disregarded the testimony of Hall, and thus his conviction should be overturned. We must decline Rodriguez's invitation to assess witness credibility and weigh the evidence. *See Drane*, 867 N.E.2d at 146. Even without Hall's testimony, the State presented evidence Rodriguez pointed a gun at Robinson, demanded money from Robinson, and Robinson gave him the money. In addition, the State presented evidence Mercer pointed a gun at Bostic and demanded money, and all three men drove away with Bostic's rims. This evidence permits Rodriguez to be convicted as an accomplice. *See* Ind. Code § 35-41-2-4 ("A person who knowingly or intentionally aids, induces, or cause another person to commit an offense commits that offense[.]").[7]

Rodriguez's arguments are invitations for us to reweigh the evidence and judge the credibility of witnesses, which we may not do. *See Drane*, 867 N.E.2d at 146. Accordingly, we affirm Rodriguez's convictions of Class B felony robbery.

Affirmed.

NAJAM, J., and RILEY, J., concur.

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[7] Rodriguez also argues the evidence was insufficient that he was an accomplice to Mercer's crimes based on our Indiana Supreme Court's test in *Edgecomb v. State*, 673 N.E.2d 1185, 1193 (Ind. 1996), *reh'g denied*, which states the following four factors used to determine if a person is an accomplice to a crime: (1) presence at the crime; (2) companionship with other actors engaged in the crime; (3) failure to oppose the commission of the crime; and (4) the course of conduct before, during, and after the crime. We disagree.

Rodriguez was present at the scene of the crime and did not oppose its commission. He and Mercer were friends, and fled the scene together with Bostic's rims. During the commission of the crime, Rodriguez pointed a gun and demanded money from Robinson. After the crime, Rodriguez, who was seated in the front passenger seat of Hall's van, disposed of one of the guns used during the crime. Finally, Rodriguez attempted to avoid responsibility by claiming to be the victim of the crime instead of the perpetrator. These facts support an inference Rodriguez was an accomplice to the robbery of Bostic.