

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
March 25, 2014

v

RENYATTA ANNETTE HAMILTON,

Defendant-Appellant.

No. 312910
Macomb Circuit Court
LC No. 2012-000570-FC

Before: BECKERING, P.J., and STEPHENS and RIORDAN

PER CURIAM.

Defendant, Renyatta Annette Hamilton, appeals as of right her jury trial convictions of first-degree felony murder, MCL 750.316(1)(b), possession of a firearm during the commission of a felony (“felony-firearm”), MCL 750.227b, armed robbery, MCL 750.529, and conspiracy to commit armed robbery, MCL 750.529; MCL 750.157a. The trial court sentenced her to life imprisonment for the first-degree felony murder conviction, two years’ imprisonment for the felony-firearm conviction, 10 to 20 years’ imprisonment for the armed robbery conviction, and 10 to 20 years’ imprisonment for the conspiracy to commit armed robbery conviction. We affirm.

The prosecution presented evidence at trial to establish that defendant and Larry Stewart, her boyfriend and codefendant, plotted to lure the victim, Kevin Brown, to an apartment building where defendant was staying and rob him. The night before the incident in question, defendant and Stewart were seen in the apartment handling and hiding a revolver. Stewart told one of the occupants of the apartment that he intended to rob someone with the gun. Defendant arranged for Brown to pick her up for a date the next morning. In the time period leading up to the date, defendant engaged in multiple telephone contacts with both Brown and Stewart, including one simultaneous contact through call waiting on the day of the shooting. When Brown arrived at the apartment complex, he encountered Stewart in the hallway, armed with the revolver. Stewart and Brown tussled in the hallway while defendant watched the events through the peephole in the door. Brown sustained four gunshot wounds and later died of his injuries.

Defendant argues that there was insufficient evidence to support her convictions of armed robbery and conspiracy to commit armed robbery. We disagree.

In criminal cases, due process requires that the evidence must have shown the defendant’s guilt beyond a reasonable doubt. *People v Harverson*, 291 Mich App 171, 175; 804

NW2d 757 (2010). This Court examines the lower court record de novo, in the light most favorable to the prosecution, to determine whether a rational trier of fact could have found that the evidence proved each element of the crime beyond a reasonable doubt. *Id.*

Michigan's armed-robbery statute provides that a person who commits a robbery, "and who in the course of engaging in that conduct, possesses a dangerous weapon[,] . . . or who represents orally or otherwise that he or she is in possession of a dangerous weapon, is guilty of a felony punishable by imprisonment for life or for any term of years." MCL 750.529. Because the crime of armed robbery also encompasses attempts to commit that offense, "a completed larceny is no longer required for a conviction of armed robbery." *People v Williams*, 288 Mich App 67, 72-73; 792 NW2d 384 (2010). An "attempt" is "[a]n overt act that is done with the intent to commit a crime but that falls short of completing the crime." *Id.* at 75, quoting Black's Law Dictionary (8th ed). A person "who conspires together with 1 or more persons to commit an offense prohibited by law . . . is guilty of the crime of conspiracy . . ." MCL 750.157a. See also *People v Mass*, 464 Mich 615, 629; 628 NW2d 540 (2001).

"Aiding and abetting describes all forms of assistance rendered to the perpetrator of a crime and comprehends all words or deeds that might support, encourage, or incite the commission of a crime . . ." *People v Bulls*, 262 Mich App 618, 625; 687 NW2d 159 (2004) (quotation omitted). The elements of aiding and abetting are:

- (1) the crime charged was committed by the defendant or some other person; (2) the defendant performed acts or gave encouragement that assisted the commission of the crime; and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time that [the defendant] gave aid and encouragement. [*People v Bennett*, 290 Mich App 465, 472; 802 NW2d 627 (2010) (quotation omitted).]

There was sufficient evidence for a rational trier of fact to conclude that defendant was guilty of armed robbery under an aiding and abetting theory and conspiracy to commit armed robbery. Defendant argues that because the trial court redacted several of her inculpatory statements to police officers pursuant to *Bruton v United States*, 391 US 123; 88 S Ct 1620; 20 L Ed 2d 476 (1968), there was no evidence that she was involved in an armed robbery or a conspiracy to commit armed robbery. This argument is meritless. Despite the redacted statements, the prosecution presented ample evidence that defendant conspired with Stewart to rob Brown. For instance, the jury heard evidence that defendant met Brown through her employment at a McDonald's restaurant where he used the drive-through line and chatted with her. Defendant told police that Brown had a lot of money and he "would always flash it." Defendant invited Brown to pick her up on the morning of the shooting at an apartment where she was staying with her cousin, Justin Lane. That same morning, defendant engaged in several telephone calls with both Brown and Stewart, and at one point, defendant's cellular telephone was connected to both men's cellular telephones using call waiting. Defendant's cellular telephone records revealed that there were 28 separate contacts between her cellular telephone and Brown's cellular telephone between 2:01 p.m. on December 17, 2011, and 8:41 a.m. on December 19, 2011, the morning of the shooting; in the same period, there were 127 separate contacts between her cellular telephone and Stewart's cellular telephone.

Further, the prosecution presented evidence that Stewart possessed a gun the night before the robbery, that defendant knew about the gun, and that Stewart planned to use the gun to commit a robbery. Brian May, who was in the apartment while the shooting took place outside in the hallway, testified that the night before the shooting he saw Stewart wrap a gun in a t-shirt and place it on a table, and that defendant told Stewart, “[Y]ou should [pick] the gun up because if [Lane] come[s] home he might pick the [t]-shirt up.”¹ May then saw defendant place the gun in her purse and leave her purse on the table. Stewart told May that the gun belonged to him and that he planned to rob somebody with it; he solicited May’s assistance, but May refused.

Additionally, immediately after the shooting the following morning, May testified that defendant called Stewart and said, “Baby, I’ve been shot.”² May knew that defendant had called Stewart because Stewart was the only person he knew whom defendant called ‘Baby.’ In a second call, May overheard defendant tell someone that “Larry” had been involved in a shooting and needed to be picked up. May identified the gun that was involved in the shooting as the same one he saw in the apartment the night before the incident.

Moreover, defendant’s inconsistent statements to the police were circumstantial evidence of her involvement in the offenses. See *People v Kowalski*, 489 Mich 488, 509; 803 NW2d 200 (2011) (explaining that a defendant’s dishonesty is circumstantial evidence of her consciousness of guilt). She told Officer Larry Emerson that she heard a scuffle in the hallway, looked through the peephole, and saw two people fighting. She heard the gun go off and felt a bullet enter her side. She claimed not to know the people in the hallway, only to ask moments later how Brown was doing and whether he would be okay. When Emerson asked her how she knew Brown, defendant told Emerson that she met him at work. She indicated that he was trying to date her and she did not want to date him, so she had given him an incorrect address so he could not find out where she lived. When asked how Brown ended up in front of her apartment door, defendant admitted that she did in fact give him her correct address and stated that they were going to go on a picnic together. She claimed not to know the other person in the hallway and denied having a husband, boyfriend, or significant other, only to later admit to Detective Jeffrey Barbera that Stewart was her boyfriend. She told Barbera that she called 911 from the kitchen after she was shot, but her telephone records revealed that she did not call 911. She also repeatedly told another officer, “[I]t wasn’t supposed to go down like this.”

It was reasonable for the jury to conclude, based on this evidence, that defendant provided assistance to Stewart and that she was involved in coordinating the armed robbery of Brown. Defendant admitted that she saw Stewart’s gun the night before the shooting, and May’s testimony suggested that defendant actively hid the gun in her purse. Stewart did not conceal the fact that he intended to rob someone, having told May that he was going to rob someone. Further, defendant and Stewart contacted each other scores of times in the hours leading up to

¹ Defendant later told police that she saw the gun in Stewart’s clothing, but claimed only to have seen the handle.

² Defendant was shot when a bullet fired in the hallway penetrated the wall and entered the apartment.

the shooting. Those contacts, along with the other circumstantial evidence presented in this case, permit the inference that defendant knew of the robbery and participated in it by luring Brown to Lane's apartment. See *Harverson*, 291 Mich App at 175 (holding that elements of the offense can be established through reasonable inferences). Consequently, the evidence was sufficient to sustain a verdict of guilty of armed robbery under an aiding and abetting theory. See MCL 767.39; *Bennett*, 290 Mich App at 472. Further, the evidence was sufficient for a rational jury to find defendant's intent to commit the crime in conjunction with Stewart, thereby providing sufficient for the jury to find defendant guilty of conspiracy to commit armed robbery. See MCL 750.157a(a); *Mass*, 464 Mich at 629.

Defendant argues that the evidence "has an explanation consistent with [her] innocence." This argument misconstrues the nature of this Court's review of a claim that there was insufficient evidence to support a conviction, which is to decide only whether "a rational trier of fact could have found that the evidence proved each element of the crime beyond a reasonable doubt." *Harverson*, 291 Mich App at 175. "Although the prosecution bears the burden of proving guilt beyond a reasonable doubt in a criminal trial, it need not negate every theory consistent with [a] defendant's innocence[.]" *People v Coy*, 258 Mich App 1, 21; 669 NW2d 831 (2003).

Because defendant's brief makes no specific arguments with respect to her convictions of felony murder, MCL 750.316(1)(b), and felony-firearm, MCL 750.227b, she has waived review of those convictions. *People v McPherson*, 263 Mich App 124, 136; 687 NW2d 370 (2004) ("The failure to brief the merits of an allegation of error constitutes an abandonment of the issue."). Regardless, there was sufficient evidence for a rational jury to find that the prosecution established the elements of felony murder, MCL 750.316(1)(b),³ and felony-firearm, MCL 750.227b, beyond a reasonable doubt because there was evidence that defendant handled the gun that, according to witness testimony, was ultimately used to kill Brown during the commission of the felony of armed robbery.

Affirmed.

/s/ Jane M. Beckering
/s/ Cynthia Diane Stephens
/s/ Michael J. Riordan

³ The elements of first-degree felony murder, MCL 750.316(1)(b), are

(1) the killing of a human being, (2) with the intent to kill, to do great bodily harm, or to create a very high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result (i.e., malice), (3) while committing, attempting to commit, or assisting in the commission of any of the felonies specifically enumerated in [MCL 750.316(1)(b)]. [*People v Carines*, 460 Mich 750, 759; 597 NW2d 130 (1999) (quotation omitted).]