

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
HURON COUNTY

State of Ohio

Court of Appeals No. H-12-024

Appellee

Trial Court No. CRI-2011-1061

v.

Billy J. Craft, Jr.

DECISION AND JUDGMENT

Appellant

Decided: December 6, 2013

* * * * *

Russell V. Leffler, Huron County Prosecuting Attorney, for appellee.

David J. Longo, Huron County Public Defender, for appellant.

* * * * *

YARBROUGH, J.

I. Introduction

{¶ 1} Appellant, Billy Craft, Jr., appeals the judgment of the Huron County Common Pleas Court, sentencing him to eight years in prison following a jury's determination of guilt on one count of aggravated robbery and one count of robbery.

A. Facts and Procedural Background

{¶ 2} This case stems from a robbery that occurred on December 8, 2011, at the Mickey Mart convenience store in Norwalk, Ohio. At around 9:30 p.m., a masked man entered the store armed with a small knife and ordered the clerk, Lavanna Harmon, to empty the cash register. Harmon quickly complied with the robber's demands, handing over approximately \$200 in cash that she placed in a plastic bag. This exchange was captured on the store's security cameras and microphones.

{¶ 3} After the robber fled the scene, Harmon instructed her coworker, Cassie Williams, to call the police. When the police arrived, Detective James Fulton began questioning Harmon and Williams about what they observed. Fulton, along with Harmon and Williams, then proceeded to review the audio and video footage. Without hesitation, both Harmon and Williams identified Craft as the speaker in the audio recordings. They recognized Craft's voice from prior visits he made to Mickey Mart, as well as an extended conversation he had with Williams at a party they both attended. Interestingly, at that party, Craft asked Williams what she would do if somebody robbed Mickey Mart.

{¶ 4} Another store clerk, Jamie Robinson, was also asked to review the security footage. She immediately identified Craft as the robber, having recognized his voice from prior interactions she had with him at the store. On one such occasion, Craft informed her that Mickey Mart was going to be robbed, and cautioned her not to "be a hero."

{¶ 5} After interviewing the store clerks, Fulton made contact with Craft's half-sister, Stephanie Bissell, and her husband Ralph. Craft, who was homeless at the time, occasionally stayed with the Bissells. The Bissells' residence was located in close proximity to Mickey Mart. In an apparent attempt to cover for Craft, the Bissells initially informed Fulton that they had eaten dinner with Craft earlier in the evening, but had not seen him since. However, the next day, their 11-year-old daughter, D.W., told her school teacher that she overheard Craft say that he robbed Mickey Mart in order to get money to pay for a taxi ride to see his girlfriend. Fulton followed up with the Bissells and, upon further questioning, they revealed that Craft returned to their home at around 10:00 p.m. on the night of the robbery with money in hand. Further, the Bissells confirmed that the voice on the Mickey Mart audio recording was Craft's.

{¶ 6} Craft was subsequently indicted on December 16, 2011, on one count of aggravated robbery in violation of R.C. 2911.01(A)(1), and one count of robbery in violation of R.C. 2911.02(A)(3). He entered a plea of not guilty, and a jury trial began on April 24, 2012. Two days later, the jury found Craft guilty of both counts. Because the two offenses were allied offenses of similar import, the state elected to have Craft sentenced on the aggravated robbery charge. The trial court sentenced him to eight years in prison, and this appeal followed.

B. Assignment of Error

{¶ 7} On appeal, Craft assigns the following error for our review:

Defendant-Appellant's conviction for aggravated robbery was against the manifest weight of the evidence.

II. Analysis

{¶ 8} In his sole assignment of error, Craft argues that his conviction was against the manifest weight of the evidence. While he acknowledges that the evidence clearly demonstrates that a robbery occurred at Mickey Mart on the night in question, Craft contends that the evidence does not support a finding that he was the perpetrator of the crime.

{¶ 9} When reviewing a manifest weight challenge, the appellate court “weighs the evidence and all reasonable inferences, considers the credibility of witnesses and determines whether in resolving conflicts in the evidence, the [trier-of-fact] clearly lost its way and created such a manifest miscarriage of justice that the conviction must be reversed and a new trial ordered.” *State v. Lang*, 129 Ohio St.3d 512, 2011-Ohio-4215, 954 N.E.2d 596, ¶ 220. This remedy only applies to exceptional cases in which the evidence weighs heavily against the conviction. *Id.*

{¶ 10} Upon due consideration of the record before us, we cannot say that the jury clearly lost its way or created a manifest miscarriage of justice when it found that Craft was the perpetrator of the robbery. We reach this conclusion for a number of reasons. First, Craft's voice was identified by five individuals, all of whom personally knew him.

Second, Ralph testified that the clothing worn by the robber matched the clothes Craft was wearing when he left the house earlier in the evening. Third, Craft had previously discussed robbing Mickey Mart with both Robinson and Williams, and the Bissells each testified that they also heard Craft speaking about a future robbery at Mickey Mart. Finally, D.W. testified that she actually overheard Craft state that he robbed Mickey Mart.

{¶ 11} Craft argues that the identification testimony provided by the Bissells is unreliable and must be discounted. Specifically, he contends that Fulton procured statements from the Bissells by threatening them with criminal prosecution for obstructing justice if they refused to provide him with information concerning Craft's whereabouts on the night of the robbery. Notably, however, the Bissells acknowledged at trial that they initially misled Fulton in order to prevent Craft's apprehension. Further, they were questioned with respect to the threats of criminal prosecution and unequivocally denied that such threats had anything to do with their identification of Craft as the robber.

{¶ 12} Craft further argues that the description of his voice provided by Williams and Robinson did not match the robber's voice heard in the audio recording. At trial, they each described Craft's voice as "part 'hillbilly' and part 'ghetto.'" Craft asserts that the robber spoke "normal English, with perhaps a trace of a southern or possibly Appalachian accent." However, even if Williams and Robinson used the wrong descriptive terms in explaining the sound of Craft's voice, the fact remains that they each

stated that they were familiar with Craft's voice and that it matched the voice in the audio recording.

{¶ 13} In light of the abundant evidence in the record to support the jury's determination that Craft committed the robbery, we conclude that Craft's manifest weight argument is without merit.

{¶ 14} Accordingly, Craft's sole assignment of error is not well-taken.

III. Conclusion

{¶ 15} Based on the foregoing, the judgment of the Huron County Court of Common Pleas is affirmed. Costs are hereby assessed to Craft in accordance with App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Thomas J. Osowik, J.

JUDGE

Stephen A. Yarbrough, J.

JUDGE

James D. Jensen, J.
CONCUR.

JUDGE

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