

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
December 13, 2012

v

SHALECSHA ONEASE MOORE,

Defendant-Appellant.

No. 306264
Wayne Circuit Court
LC No. 11-004475-FH

Before: JANSEN, P.J., and SAWYER and FORT HOOD, JJ.

PER CURIAM.

Defendant was convicted, following a bench trial, of two counts of felonious assault, MCL 750.82, discharge of a firearm at an occupied structure, MCL 750.234b, possession of a loaded firearm in a motor vehicle, MCL 750.227c, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant appeals by right.¹ We affirm.

Defendant's sole issue on appeal challenges the sufficiency of the evidence to support the convictions.

A challenge to the sufficiency of the evidence is reviewed de novo. When reviewing a claim of insufficient evidence, this Court reviews the record in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. Appellate review of a challenge to the sufficiency of the evidence is deferential. The reviewing court must draw all reasonable inferences and examine credibility issue in support of the . . . verdict. When assessing a challenge to the sufficiency of the evidence, the trier of fact, not the appellate court, determines what inferences may be fairly drawn from the evidence and the

¹ Defendant was sentenced to 1 ½ to 4 years' imprisonment for the felonious assault and discharge of a firearm convictions, 1 to 2 years' imprisonment for the possession of a loaded firearm in a motor vehicle conviction, and 2 years' imprisonment for the felony-firearm conviction. She does not challenge her sentences on appeal.

weight to be accorded those inferences. This Court must not interfere with the [trier of fact's] role as the sole judge of the facts when reviewing the evidence. [*People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010) (citations omitted).]

Conflicts in the evidence are resolved in favor of the prosecution, and circumstantial evidence and reasonable inferences arising from that evidence may constitute proof of the elements of the crime. *People v Bennett*, 290 Mich App 465, 472; 802 NW2d 627 (2010).

First, defendant alleges that there was insufficient evidence to support the felonious assault conviction involving the first shooting incident by her co-defendant premised on an aiding and abetting theory. We disagree. "Aiding and abetting means to assist the perpetrator of a crime. An aider and abettor is one who is present at the crime scene and by word or deed gives active encouragement to the perpetrator of the crime, or by his conduct makes clear that he is ready to assist the perpetrator if such assistance is needed." *People v Moore*, 470 Mich 56, 63; 679 NW2d 41 (2004) (further citation omitted). The elements of aiding and abetting are: 1) the crime was committed by the defendant or some other person; 2) the defendant performed acts or gave encouragement which assisted in the commission of the crime; and 3) defendant intended the crime's commission or had knowledge that the principal intended its commission at the time the defendant provided aid and encouragement. *People v Robinson*, 475 Mich 1, 6; 715 NW2d 44 (2006). "The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery." *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).

A review of the record reveals that there was sufficient evidence to convict defendant of felonious assault for the shooting by her co-defendant premised on an aiding and abetting theory. Witnesses testified that the co-defendant left the scene speaking on the telephone, but returned in a white Ford Taurus driven by defendant. Moments before the drive-by shooting, defendant stated, "Is these the people that were shooting at you [?]" Viewing the evidence in the light most favorable to the prosecutor, there was sufficient evidence and reasonable inferences arising from the circumstantial evidence that defendant aided and abetted her co-defendant in the commission of the first felonious assault. *Bennett*, 290 Mich App at 472; *Malone*, 287 Mich App at 654. According to the witnesses, defendant assisted the perpetrator, her co-defendant, by returning him to the scene to commit the shooting and apparently knew of his intention to fire upon individuals with whom he had a dispute in light of her comment. *Moore*, 470 Mich at 63. Accordingly, this challenge does not provide defendant with appellate relief.

Next, defendant contends that there was insufficient evidence of identification. We disagree. In a criminal prosecution, the identity of the defendant is an essential element of every crime. *People v Oliphant*, 399 Mich 472, 489; 250 NW2d 443 (1976). "Unsupported eyewitness testimony, if believed by the trier of fact, is sufficient to convict." *People v Richards*, 76 Mich App 695, 698; 256 NW2d 793 (1977); see also *People v Newby*, 66 Mich App 400, 405; 239 NW2d 387 (1976). The credibility of identification testimony presents a question of fact for the jury. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000). This Court does not resolve credibility determinations anew. *Id.*

The first witness testified that, although she did not have a prior relationship with defendant, she observed defendant sitting in the driver's seat of the white Taurus, and the area was illuminated because of street lights. After the first shooting, defendant returned a second time and stood in the street, pulled a green bag off the shotgun, and fired it at the home. Defendant returned a third time to the home, but was ultimately apprehended by police shortly after departing from the scene. A consensual² search of defendant's vehicle uncovered a shotgun in a green bag in the trunk. The ability to identify the perpetrators was explored on cross-examination in light of the tinted windows on the vehicle. Nonetheless, the trial court noted that this first eyewitness was "exquisitely credible" and provided a "crystal clear" version of what happened. In light of our deference to the trial court's determination regarding issues of credibility, defendant is not entitled to appellate relief. *Davis*, 241 Mich App at 700.

Lastly, defendant asserts that there was no scientific evidence that the gun was recently fired and "no evidence that defendant knew that the gun was loaded." Scientific evidence of recent firing of the weapon was unnecessary in light of the eyewitness testimony that defendant was observed firing the shotgun. Moreover, "knowledge that a firearm is loaded is not an element of MCL 750.227c[.]" *People v Quinn*, 440 Mich 178, 197; 487 NW2d 194 (1992). This claim of error is without merit.³

Affirmed.

/s/ Kathleen Jansen
/s/ David H. Sawyer
/s/ Karen M. Fort Hood

² In defendant's brief on appeal, she states that she did not consent to the search. However, our review of the officer's testimony indicates that she did consent.

³ Defendant does not challenge the other elements of the convictions, and therefore, we do not address them.