

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

P. STEPHEN MILLER
Fort Wayne, Indiana

ATTORNEYS FOR APPELLEE:

STEVE CARTER
Attorney General of Indiana

NICOLE M. SCHUSTER
Deputy Attorney General
Indianapolis, Indiana

**IN THE
COURT OF APPEALS OF INDIANA**

JUSTIN LITTLEJOHN,
Appellant-Defendant,

vs.

STATE OF INDIANA,
Appellee-Plaintiff.

)
)
)
)
)
)
)
)
)
)
)
)

No. 02A05-0707-CR-416

APPEAL FROM THE ALLEN SUPERIOR COURT
The Honorable John F. Surbeck, Jr., Judge
Cause No. 02D04-0508-FB-124

October 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Chief Judge

Appellant-defendant Justin Littlejohn appeals his conviction for Robbery,¹ a class B felony, arguing that there is insufficient evidence to support the conviction. Finding that the evidence is sufficient, we affirm the judgment of the trial court.

FACTS

On August 24, 2005, two men later identified as Littlejohn and Sidney Gates entered the Penguin Point restaurant in Fort Wayne where Littlejohn had worked in the past. One of Littlejohn's former co-workers, Ryan Tracy, saw and recognized Littlejohn. Littlejohn and Gates entered the restaurant and went to the bathroom, emerging with cloths over their faces and guns in their hands, jumping behind the counter and demanding money from the employees, Tracy and Anna Dale, at gunpoint. The employees gave Littlejohn and Gates the contents of the two cash registers and the change box. Littlejohn and Gates then left the restaurant and fled across the parking lot. Later that evening, police officers searched Littlejohn's residence and found a "wad of cash," appellee's br. p. 3, in Littlejohn's dresser drawer and two guns hidden in the family room fireplace.

On August 30, 2005, the State charged Littlejohn with class B felony robbery. Following a two-day jury trial, Littlejohn was found guilty as charged on January 24, 2007. On February 26, 2007, following a hearing, the trial court sentenced Littlejohn to ten years of imprisonment. Littlejohn now appeals.

¹ Ind. Code § 35-42-5-1.

DISCUSSION AND DECISION

Littlejohn challenges the sufficiency of the evidence supporting his conviction. In reviewing such a challenge, we neither reweigh the evidence nor judge the credibility of witnesses. McHenry v. State, 820 N.E.2d 124, 126 (Ind. 2005). Instead, we consider only the evidence favorable to the verdict and all reasonable inferences that may be drawn therefrom. Id. We will affirm the conviction unless no rational factfinder could have found the defendant guilty beyond a reasonable doubt. Clark v. State, 728 N.E.2d 880, 887 (Ind. Ct. App. 2000).

Littlejohn's sole argument on appeal is that there is insufficient evidence establishing his identity as the robber. At trial, Tracy, who knew and had worked with Littlejohn in the past, identified Littlejohn as one of the robbers and stated that she was confident of her identification. Tr. p. 83-84, 90. Dale, who made eye contact with Littlejohn and heard his voice, testified that she had a "good look" at him and was confident of her identification. Id. at 115, 122, 128. This is ample evidence of Littlejohn's guilt. See Stowers v. State, 657 N.E.2d 194, 200 (Ind. Ct. App. 1995) (holding that eyewitness identification by a single witness is sufficient to support a conviction for robbery). Littlejohn directs our attention to alleged inconsistencies in the witnesses' testimonies and to the absence of forensic evidence, but these are mere invitations to reweigh the evidence and judge the credibility of witnesses—a practice in which we do not engage when evaluating the sufficiency of the evidence supporting a conviction.

The judgment of the trial court is affirmed.’

BAILEY, J., and VAIDIK, J., concur.