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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE, Plaintiff and Respondent, v. LAMONT J. THOMPSON, Defendant and Appellant.	B214709 (Los Angeles County Super. Ct. No. BA335207)

APPEAL from a judgment of the Superior Court of Los Angeles County, Robert J. Perry, Judge. Affirmed.

Pamela J. Voich, under appointment by the Court of Appeal, for Defendant and Appellant.

Edmund G. Brown, Jr., Attorney General, Dane R. Gillette, Chief Assistant Attorney General, Pamela C. Hamanaka, Senior Assistant Attorney General, James William Bilderback II and Marc A. Kohm, Deputy Attorneys General, for Plaintiff and Respondent.

Lamont J. Thompson appeals from the judgment entered following his conviction by jury of residential robbery and related felony offenses. On appeal, Thompson challenges the sufficiency of the evidence to support the robbery conviction. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

Thompson was charged by information with residential burglary (Pen. Code, § 459)[1] (count 1), assault with a deadly weapon (§ 245, subd. (a)(1)) (count 2), making a criminal threat (§ 422) (count 3), false imprisonment by violence (§ 236) (count 4), residential robbery (§ 211) (count 5) and dissuading a witness from testifying (§ 136.1, subd. (a)(1)) (count 6). The information specially alleged as to counts 1 and 2 that Thompson personally used a deadly weapon (§ 12022, subd. (b)(1)) and personally inflicted great bodily injury (§ 12022.7, subd. (a)).

1. *Summary of Trial Evidence*

According to the prosecution evidence, the victim, Brenda Darden, backed out of her driveway and scraped her neighbor's parked Hummer on December 25, 2007. The neighbor, Brittney Stricken, agreed to accept Darden's $700 payment to repair the `

Hummer in monthly $100 installments.[2] After Darden made her first $100 payment, Thompson, Stricklen's boyfriend, claimed the Hummer was his and demanded that Darden accelerate the payments.

Darden testified she was in her upstairs bedroom the night of January 13, 2008 and heard Thompson and Stricklen outside her apartment. They were calling her name and banging on her front door. Darden ignored them. Some time later, Darden heard the front door open. She hid in her bedroom closet, leaving the door slightly open. Peeking out, Darden saw Thompson and Stricklen running in and out of the bedroom. At one point, Thompson left with Darden's radio/compact disk player, which he put in his Hummer. While Thompson was outside, Stricklen found Darden and alerted Thompson.

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[1] Statutory references are to the Penal Code.

[2] Brittney Stricklen, a codefendant in this case, was convicted of residential burglary and residential robbery. She is not a party to this appeal.

He pulled Darden out of the closet, twisted her arm, and punched her in the face. Darden fell to the floor. Thompson planted his foot on the back of Darden's neck and began hitting her in the head, first with a glass candy dish and then with a dumbbell, both of which were in the bedroom.

Darden testified the attack lasted about 10 minutes. Thompson then had Stricklen take Darden into the bathroom and close the door "because he did not want [her] to see what he was doing." Stricklen led Darden into the bathroom and remained with her. Darden could hear Thompson ransacking her apartment. Minutes later, Stricklen opened the door to the bathroom door. Thompson was standing there, holding a pair of shoes belonging to Darden's son and some orange juice from her refrigerator. Thompson warned Darden, "You better not call the police or I'll kill you." He also told her, "We'll be back. Have the money." Thompson took the shoes and the juice with him and drove away with Stricklen in the Hummer.

Darden testified she contacted police and was taken to the hospital. She received 43 staples to her head for her injuries.

After the trial court granted his motion for judgment of acquittal (§ 1118.1) as to count 4, false imprisonment by violence, Thompson testified in his own defense that he and Stricklen[3] knocked on Darden's front door, and she invited them inside her apartment. Darden and Stricklen talked about the payment plan; Thompson was not involved in their discussion. Darden ultimately stated she did not have the money to pay for repairing the Hummer. Thompson and Stricklen turned to leave, when Darden retrieved a butcher knife from the dining room table and attempted to stab Thompson. He punched her once in the mouth to protect himself. Darden stumbled and dropped the knife. Thompson and Stricklen left the apartment. Other than hitting her once in self-defense, Thompson denied attacking or threatening Darden. He also denied taking any of Darden's property.

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[3] Stricklen did not testify or present other evidence in her defense.

2. *Verdict and Sentencing*

The jury found Thompson guilty as charged in counts 1, 2, 3 and 5, but acquitted him of count 6, dissuading a witness from testifying.

The trial court sentenced Thompson to an aggregate state prison term of 10 years 8 months: The lower term of six years for residential burglary, plus one year for the deadly weapon enhancement and three years for the great bodily injury enhancement; and a consecutive term of eight months, or one-third the middle term, for making a criminal threat. The sentences on the remaining counts for assault with a deadly weapon and residential robbery were imposed but stayed under section 654.

DISCUSSION

When determining the sufficiency of the evidence to sustain a conviction, "our role on appeal is a limited one." (*People v. Ochoa* (1993) 6 Cal.4th 1199, 1206.) We view the whole record in the light most favorable to the judgment to determine whether it discloses substantial evidence—that is, evidence that is reasonable, credible and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Kraft* (2000) 23 Cal.4th 978, 1053; *People v. Bolin* (1998) 18 Cal.4th 297, 331.)

Additionally, in deciding the sufficiency of the evidence, an appellate court does not reweigh evidence or resolve credibility issues, which are "the exclusive province of the trier of fact." (*People v. Young* (2005) 34 Cal.4th 1149, 1181; see *People v. Ochoa, supra,* 6 Cal.4th at p. 1206.)

"Robbery is the taking of 'personal property in the possession of another against the will and from the person or immediate presence of that person accomplished by means of force or fear and with the specific intent permanently to deprive such person of such property. [Citation.]" (*People v. Lewis* (2008) 43 Cal.4th 415, 464.) The element of "taking" "has two aspects: (1) achieving possession of the property, known as 'caption,' and (2) carrying the property away, or 'asportation.' [Citations.]" (*People v. Gomez* (2008) 43 Cal.4th 249, 255.) These aspects include forcing or frightening a victim into leaving the scene, as well as simply deterring a victim from preventing the

theft or attempting to immediately reclaim the property. (See, e.g., *People v. Villa* (2007) 157 Cal.App.4th 1429, 1433 [in fleeing with stolen property, defendant pointed what appeared to be a gun at pursuing victim]; *People v. Flynn* (2000) 77 Cal.App.4th 766, 769-773 [immediately after purse snatching, defendant removed a gun from victim's purse, showed it to fellow gang members and screamed at victim, prompting her to flee]; *People v. Prieto* (1993) 15 Cal.App.4th 210, 211-216 [victim too fearful and shocked to intervene in struggle between defendant and second victim over victims' purses]; *People v. Dominguez* (1992) 11 Cal.App.4th 1342, 1346-1349 [defendant ordered victim out of his residence at gunpoint before carrying off stolen property].) "Although the slightest movement may constitute asportation ([citation]), the theft continues until the perpetrator has reached a place of temporary safety with the property.' [Citation.]" (*People v. Gomez, supra*, 43 Cal.4th at p. 255.)

Overlooking unfavorable evidence, Thompson contends the record shows at most that he committed petty theft by removing Darden's radio/compact disk player from her bedroom, while she was hiding in the closet. According to Thompson, there was no evidence he used force or fear to gain possession of or carry away any of Darden's property or to prevent her from regaining possession of the property. Thompson claims his display of force was solely an attempt to induce Darden to pay her debt to Strick2len, and not an effort to retain possession of the radio/compact disk player he had already removed from the apartment.

The record establishes that Thompson entered the apartment with the intent to steal money or property from Darden and indeed took her radio/compact disk player from her bedroom (thus committing burglary). There is also overwhelming evidence that Thompson thereafter committed residential robbery. When he learned Darden was at home, but had been hiding in her closet, Thompson did not simply leave with the radio/compact disk player he had already placed in his Hummer. Instead, Thompson beat Darden to the point of incapacitation and had Stricklen keep her in the bathroom, so he could ransack the apartment without Darden's interference. After retrieving some shoes and juice, Thompson threatened to kill Darden if she telephoned police. A rational jury

could have found beyond a reasonable doubt that Thompson attacked, confined and threatened Darden to facilitate the successful taking of her property against her will. (See *People v. Wallace* (2008) 44 Cal.4th 1032, 1078.) Accordingly, Thompson used both force and fear to stop Darden from preventing the theft in any way and from attempting to reclaim her property.

DISPOSITION

The judgment is affirmed.

WOODS, J.

We concur:

PERLUSS, P. J.

ZELON, J.