

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2002-CA-001340-MR

WILLIAM RAY

APPELLANT

v. APPEAL FROM KNOX CIRCUIT COURT  
HONORABLE RODERICK MESSER, JUDGE  
ACTION NO. 02-CR-00032

COMMONWEALTH OF KENTUCKY

APPELLEE

OPINION  
AFFIRMING

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BEFORE: BAKER, COMBS, AND SCHRODER, JUDGES.

SCHRODER, JUDGE. This is an appeal from a judgment pursuant to a jury verdict convicting appellant of first-degree robbery. Given the overwhelming evidence of appellant's guilt, we reject his sole argument that the trial court erred in refusing to direct a verdict in his favor. Hence, we affirm.

At the jury trial of appellant, William Ray, the victim, Jeffrey Graves, testified that in the early morning hours of October 20, 2001, he was delivering Lexington Herald

Leader newspapers to various businesses and noticed a red car that seemed to be following him. After seeing the same car pull up behind him at multiple stops, Graves became concerned and decided to call police when he made the delivery to his last stop, Fresh Mart. Graves pulled into the Fresh Mart parking lot at an angle by the phone and the red car pulled up behind the building. Graves dropped off the newspapers and, as he was walking back out to the parking lot, the passenger in the red car, later identified as Ray, got out of the car and asked what Graves was doing. Graves stated that he did not want any trouble, to which Ray replied, "We want some." Graves testified that Ray then demanded his money, and when Graves stated that he didn't have any, Ray said, "fuck you" and pulled out a revolver. According to Graves, Ray then fired two shots toward him and he (Graves) thereupon dived over the hood of his truck to avoid being shot. When Graves heard the car door close, he got up in an attempt to get the license plate number of the red car as it was leaving. Although he did not get the license number of the car, he did note that it had "LC Seniors" written on the back of the car and a dent on the right side.

When interviewed by police, Graves described Ray as a shorter white male, between 5 feet 8 inches and 5 feet 10 inches tall, between the ages of 18 and 20, and with shoulder length dirty blonde hair. Graves subsequently picked Ray out of a

photo lineup at the police station and identified Ray as the shooter in the courtroom during the trial.

Based on the description of the writing on the car, the police went to Lincamp High School and interviewed possible witnesses. After interviewing two students, Ray became a suspect in the case. Later, while in police custody, Ray gave a written statement confessing to the crime. In this statement, which was admitted at trial, Ray stated that on the night in question, he and John Hart went out to get cigarettes and food and were so drunk and high that they tried to take an innocent man's money.

Ray was thereafter indicted on charges of first-degree robbery and first-degree wanton endangerment. Pursuant to a jury verdict, Ray was found guilty of first-degree robbery and sentenced to fifteen years' imprisonment. This appeal by Ray followed.

Ray's sole argument on appeal is that there was insufficient evidence of his guilt, thus, the trial court erred in denying his motion for a directed verdict.<sup>1</sup> "On appellate review, the test of a directed verdict is, if under the evidence as a whole, it would be clearly unreasonable for a jury to find guilt, only then the defendant is entitled to a directed verdict

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<sup>1</sup>Ray's appellate brief was submitted pursuant to Anders v. State of California, 386 U.S. 738, 87 S. Ct. 1396, 118 L. Ed. 2d 493 (1967).

of acquittal." Commonwealth v. Benham, Ky., 816 S.W.2d 186, 187 (1991). KRS 515.020(1) provides:

A person is guilty of robbery in the first degree when, in the course of committing a theft, he threatens the immediate use of physical force upon another person with intent to accomplish the theft and when he:

- (a) Causes physical injury to any person who is not a participant in the crime; or
- (b) Is armed with a deadly weapon; or
- (c) Uses or threatens the immediate use of a dangerous instrument upon any person who is not a participant in the crime.

From our review of the trial, we believe there was more than sufficient evidence of Ray's guilt. The uncontroverted testimony of Graves alone established all of the elements of first-degree robbery - threatened immediate use of physical force with a dangerous instrument/deadly weapon in the course of committing a theft. As for evidence regarding identity, Graves's subsequent identifications of Ray, not to mention Ray's confession, were sufficient evidence that Ray was the perpetrator. Accordingly, the trial court properly denied Ray's motion for directed verdict.

For the reasons stated above, the judgment of the Knox Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

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