

# ARKANSAS COURT OF APPEALS

DIVISION IV  
No. CACR 12-327

AARON BASS

APPELLANT

V.

STATE OF ARKANSAS

APPELLEE

Opinion Delivered JANUARY 30, 2013

APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT,  
SECOND DIVISION  
[NO. CR-11-475]

HONORABLE CHRISTOPHER  
CHARLES PIAZZA, JUDGE

AFFIRMED

---

**KENNETH S. HIXSON, Judge**

A jury in Pulaski County Circuit Court found appellant Aaron Bass guilty of aggravated robbery, theft of property, aggravated assault, and an enhancement due to use of a firearm. These charges resulted from appellant and a codefendant, Richard Green, being accused of robbing James Harris at gunpoint. On appeal, appellant challenges the sufficiency of the evidence to convict him of these crimes, asserting that he was merely present and not involved when Green committed these criminal acts. We disagree with his argument and affirm.

The test for determining the sufficiency of the evidence is whether the verdict is supported by substantial evidence, which can be direct or circumstantial. *Smith v. State*, 352 Ark. 92, 98 S.W.3d 433 (2003). Substantial evidence is evidence that is forceful enough to compel a conclusion beyond suspicion and conjecture. *Id.* Credibility is left to the finder



of fact, not the appellate court. *Id.* On appeal, we view the evidence in the light most favorable to the State, considering only the evidence that supports the verdict of guilt. *Id.*

A person is an accomplice of another in the commission of an offense if, with the purpose of promoting or facilitating the commission of the offense, the person solicits, advises, encourages, or coerces the other person to commit the offense or aids, agrees to aid, or attempts to aid the other person in planning or committing the offense. Ark. Code Ann. § 5-2-403(a) (Repl. 2006); *Cook v. State*, 350 Ark. 398, 86 S.W.3d 916 (2002). No distinction exists between the criminal liability of an accomplice versus the principal criminal. *See Cook, supra.* Each participant is criminally liable for his own conduct, but he cannot disclaim responsibility because he did not personally take part in every act that went up to make the crime as a whole. *Id.*

The definition of “accomplice” under Arkansas law includes the following: To constitute one an accomplice, the defendant must take some part, perform some act, or owe some duty to the person in danger that makes it incumbent on him to prevent the commission of the crime. *Gilcrease v. State*, 2009 Ark. 298, 318 S.W.3d 70. Mere presence, acquiescence, or silence, in the absence of a duty to act, is not enough, however responsible it may be, to constitute one an accomplice. *Id.* Relevant factors in determining the connection of an accomplice to a crime are the presence of the accused in proximity of a crime, the opportunity to commit the crime, and association with a person involved in a manner suggestive of joint participation. *Id. Clark v. State*, 358 Ark. 469, 192 S.W.3d 248 (2004).



At the jury trial on these charges, James Harris testified that he was driving to work on an icy January day in Little Rock when he stopped his vehicle briefly to determine if it was safe to continue due to the road conditions. Harris stated that a young black male whom he referred to as the “first individual,” walked up to his vehicle, hit his window with a gun, told Harris to put down the window, ordered Harris out of his vehicle, and demanded his money. Harris testified that after he exited his vehicle and reached into his pants pocket for his wallet, another young black male, whom he referred to as the “second individual,” approached and demanded that Harris take off his pants. Harris identified the first individual as the appellant, Aaron Bass, and the second individual as Richard Green. Harris stated that appellant was the shorter of the two.

Harris testified that Green pulled at his pants, causing Harris to fall. According to Harris, Green then yelled to appellant, “Let’s go!” Appellant did not run at first but continued pointing the gun at Harris and ultimately shot twice toward Harris on the ground. The bullets did not strike Harris. As the two ran away, Harris said he reentered his vehicle and followed them, observing the two enter an apartment complex. Harris asked another person on the street to call the police.

Little Rock police officer Aaron McDurmont testified that he was assisted by Officers David Edgmon and Jacob Pasman in the search for the two suspects. The officers observed two sets of footprints in the snow leading to the back of the apartment complex. The officers knocked on several doors, and Catassia Campbell allowed them to search her apartment. They found appellant and Green hiding in two separate closets in the apartment. Harris’s



pants were found in the apartment's washing machine. The pants were the only item in it. A loaded nine-millimeter gun was found atop one of the closet shelves. In looking through appellant's Cricket cell-phone photographs, the police found one of appellant holding a gun that appeared to be the same gun found in the apartment. Harris identified appellant in a photo lineup and in the courtroom as the person who robbed him at gunpoint. Arrest reports indicated that Green was taller than appellant. At the time of these crimes, appellant was sixteen, and Green was nineteen.

Green testified on behalf of appellant. Green was serving a prison sentence for these crimes. He said that appellant was not involved, that this was a drug deal between him and Harris that soured, and that appellant was merely present and not a participant. Green denied that either of them had a gun. Green did not recall that at his plea hearing, he admitted that both he and appellant were involved in these crimes. Green agreed, however, that he was taller than appellant.

Appellant contends that because Green took full responsibility for these crimes, there is insufficient evidence from which the jury could conclude that he was the principal or an accomplice to these crimes. Stated another way, appellant does not contend that the State's proof lacked any particular element on each of the offenses as charged, but instead asserts that Green was the sole perpetrator. We disagree with his contention.

Viewing the evidence in the light most favorable to the State, as we must, appellant's argument fails. Harris identified appellant, not Green, as the person who pointed a gun at him, demanded he exit his vehicle, demanded that Harris give up his money, and twice shot



at him. Harris testified that appellant continued to point the gun at him while Green took his pants. The jury was entitled to believe Harris's testimony identifying appellant as the principal criminal of three firearm-based charges and, at the least, an accomplice to Green's theft of Harris's pants. The jury did not have to believe Green's testimony. *Cluck v. State*, 365 Ark. 166, 226 S.W.3d 780 (2006).

Moreover, there were additional factors linking appellant to these crimes, indicative of joint participation. Both appellant and Green were identified as fleeing the scene, both were found hiding in the same apartment, and both were within proximity to a loaded gun and Harris's pants. There was photographic evidence of appellant holding a firearm similar to the one found in the apartment closet. This constitutes sufficient evidence from which the jury could determine that appellant was connected to these crimes.

Based upon our standard of review, we affirm appellant's convictions.

WOOD and BROWN, JJ., agree.

*Lott Rolfe, IV*, for appellant.

*Dustin McDaniel*, Att'y Gen., by: *Kathryn Henry*, Ass't Att'y Gen., for appellee.