STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SABORRIS DELWIN HAMIEL,

Defendant-Appellant.

UNPUBLISHED
May 7, 1996

No. 171607
LC No. 93-005338

Before: Griffin, P.J., and Smolenski and L. P. Borrello,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of assault with intent to murder, MCL 750.83; MSA 28.278, felonious assault, MCL 750.82; MSA 28.277, and the commission of a felony while in possession of a firearm, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to eight to fifteen years' imprisonment for the assault with intent to murder conviction and two to four years' imprisonment for the felonious assault conviction. These concurrent sentences are consecutive to a two year sentence for defendant's felony-firearm conviction. Defendant appeals as of right. We affirm.

On appeal, defendant first claims that the trial court clearly erred in basing his felonious assault conviction solely on the victim's apprehension of a battery. We disagree. A trial court's findings of fact are sufficient to support a conviction if it appears from the findings that the trial court was aware of the issues in the case and correctly applied the law. *People v Jackson*, 390 Mich 621, 628; 212 NW2d 918 (1973); *People v Legg*, 197 Mich App 131, 134-135; 494 NW2d 797 (1992); *People v Vaughn*, 186 Mich App 376; 465 NW2d 365 (1990). Here, the transcript clearly shows that the trial court specifically determined that defendant threatened the victim of the felonious assault by holding a gun to her head, that the victim was afraid of an imminent battery, and that defendant intended to place the victim in fear of a battery. Therefore, we conclude that the trial court understood the intent required for a conviction of felonious assault and that it correctly applied the law. See *People v Johnson*, 407 Mich 196; 284 NW2d 718 (1979); *People v Wardlaw*, 190 Mich App 318, 319; 475 NW2d 387 (1991).

---

* Circuit judge, sitting on the Court of Appeals by assignment.

Next, defendant contends that there is insufficient evidence to support his conviction for assault with intent to murder. We disagree. In reviewing the sufficiency of the evidence in a criminal case, we must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe,* 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Circumstantial evidence and reasonable inferences derived therefrom can constitute satisfactory proof of the elements of a crime. *People v Reddick,* 187 Mich App 547, 551; 468 NW2d 278 (1991); *People v Bowers,* 136 Mich App 284, 297; 356 NW2d 618 (1984).

Here, the evidence reveals that defendant shot the victim (his girlfriend) three times at close range. The last two shots would have hit the victim's chest if she had not put her legs in front of her chest to protect herself. Defendant stopped shooting and left only after the victim pretended to be dead. Just after the shooting, two witnesses overheard defendant tell a friend, "I killed the b____." Although defendant claims that the shooting occurred in "heat of passion," we conclude that neither the victim's decision to put her arm around another man to tell him that he was not "ugly" nor the verbal altercation that followed would cause a reasonable person to lose control and shoot his girlfriend. See *People v Pouncey,* 437 Mich 382, 388; 471 NW2d 346 (1991). Therefore, viewing this evidence in a light most favorable to the prosecution, we find that there was sufficient evidence to permit a rational trier of fact to conclude that defendant intended to kill the victim and that, had the victim died, the provocation that inspired defendant's conduct would not have been adequate to reduce the crime from murder to manslaughter. Accordingly, we conclude that there was sufficient evidence to find that defendant was guilty beyond a reasonable doubt of assault with intent to murder. See *People v Barclay,* 208 Mich App 670, 674; 528 NW2d 842 (1995); see also *People v Lawton,* 196 Mich App 341, 350; 492 NW2d 810 (1992).

Finally, defendant argues that his sentence violates the principle of proportionality established in *People v Milbourn,* 435 Mich 630; 461 NW2d 1 (1990). However, defendant's sentence is within the recommended guidelines' range. His sentence is therefore presumptively proportionate. *People v Broden,* 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Cutchall,* 200 Mich App 396, 410; 504 NW2d 666 (1993). Defendant has failed to present circumstances sufficiently unusual to overcome the presumption that his sentence -- a sentence at the very bottom of the guidelines' range -- is proportionate.

Affirmed.

/s/ Richard Allen Griffin
/s/ Michael R. Smolenski
/s/ Leopold P. Borrello