STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GERALDO CASTRO, a/k/a
GERALDO PEREIRA CASTRO,

Defendant-Appellant.

UNPUBLISHED
June 28, 1996

No. 177249
LC No. 93-004929

Before: Corrigan, P.J., and MacKenzie and P.J. Clulo*, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of three counts of assault with intent to murder, MCL 750.83; MSA 28.278, and one count of possession of a firearm during the commission of a felony, MCL 750.27b; MSA 28.424(2). He was sentenced to fifteen to twenty-five years' imprisonment for each assault conviction, to be served consecutively to the mandatory two-year term for his felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant argues that the evidence presented at trial was insufficient to convict him of assault with intent to murder. When reviewing a challenge to the sufficiency of the evidence, this Court views the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994); *People v Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995). The elements of assault with intent to murder are (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v Barclay*, 208 Mich App 670, 674; 528 NW2d 842 (1995). Here, defendant claims that there was insufficient evidence of his intent to kill. Intent may be inferred from all the facts and circumstances, *People v Safiedine*, 163 Mich App 25, 29; 414 NW2d 143 (1987); *People v Daniels*, 163 Mich App 703, 706; 415 NW2d 282 (1987), and because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient. *People v Bowers*, 136 Mich App 284, 297; 356 NW2d 618

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

(1984). Moreover, the use of a lethal weapon is the kind of evidence that will support an inference to kill. *People v Ray*, 56 Mich App 610, 615; 224 NW2d 735 (1974). Viewed in a light most favorable to the prosecution, the evidence in this case established that defendant was angry when he was asked to leave the bar he was patronizing. As he left the premises, he began cursing at the bar's employees, telling three of them that he was going to shoot and kill them. Nearly two hours after being ejected from the bar, defendant returned to the scene with a gun. Defendant fired four shots at close range in the direction of the bar, hitting the three employees that he earlier threatened to shoot and kill. This evidence was sufficient to support defendant's convictions.

In a related argument, defendant claims that the trial court abused its discretion by denying his motion for a new trial because the trial court's verdict was against the great weight of the evidence. We disagree.

When reviewing the denial of a motion for a new trial based on a great weight of the evidence argument, we examine the entire body of proofs to determine whether the trial court abused its discretion in denying the motion and whether the verdict was manifestly against the clear weight of the evidence. *People v Herbert*, 444 Mich 466, 475; 511 NW2d 654 (1993); *People v DeLisle*, 202 Mich App 658, 661; 509 NW2d 885 (1993); *People v Harris*, 190 Mich App 652, 659; 476 NW2d 767 (1991).

When the evidence presented at trial is reviewed in its entirety, it is clear that the trial court's decision to deny defendant's motion for a new trial was not manifestly against the clear weight of the evidence and did not constitute an abuse of discretion. *Harris, supra*.

Affirmed.

/s/ Maura D. Corrigan
/s/ Barbara B. MacKenzie
/s/ Paul J. Clulo