# STATE OF MICHIGAN

# COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRYL LUCAS BROWN,

Defendant-Appellant.

UNPUBLISHED
August 2, 1996

No. 184532
LC No. 94-007976

Before: Michael J. Kelly, P.J., and Markman and J.J. Martlew,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial convictions for arson of a dwelling house, MCL 750.72; MSA 28.267, and two counts of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279. Defendant was sentenced to eight to twenty years in prison for the arson count, and six to ten years in prison for each of the two counts of assault, to be served concurrently. We affirm.

Defendant first argues that the evidence was insufficient to establish beyond a reasonable doubt that he had the requisite intent to do great bodily harm. We disagree.

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 Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). The elements of assault with intent to do great bodily harm less than murder are: (1) an attempt or offer with force or violence to do corporal hurt to another (an assault); (2) coupled with an intent to do great bodily harm less than murder. *People v Harrington*, 194 Mich App 424, 428; 487 NW2d 479 (1992). "Intent to do great bodily harm less than murder" means an intent to do serious injury of an aggravated nature. *People v Mitchell*, 149 Mich App 36, 39; 384 NW2d 717 (1986). Specific intent may be inferred from circumstantial evidence. *People v Eggleston*, 149 Mich App 665, 668; 386 NW2d 637 (1986).

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

Viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could conclude that defendant acted with the intent to do great bodily harm less than murder. First, the fire occurred less than a week after defendant's ex-girlfriend ended their relationship. Second, the testimony established that defendant deliberately set fire to his ex-girlfriend's house in the middle of the night. Third, defendant testified that he heard voices in the house before the fire started. Hence, he knew it was occupied when he set the fire. From these facts, a rational trier of fact could infer that defendant intended serious injury of an aggravated nature when he set fire to his ex-girlfriend's home, knowing that it was occupied. Therefore, the evidence was sufficient to establish that defendant acted with the intent to do great bodily harm less than murder.

Defendant next argues that his sentence was disproportionate. Defendant's eight year sentence for the arson conviction fell within the two to eight year range recommended by the sentencing guidelines. Thus, it is presumptively valid, absent a showing of unusual circumstances. *People v Milbourn*, 435 Mich 630, 659-661; 461 NW2d 1 (1990). Although defendant raised several factors at sentencing, i.e., poor upbringing, remorse, and willingness to reform, none are so unusual as to justify resentencing. Accordingly, the trial court did not abuse its discretion when imposing sentence.[1]

Affirmed.

/s/ Michael J. Kelly
/s/ Stephen J. Markman
/s/ Jeffrey J. Martlew

[1] Defendant raised additional circumstances for consideration on appeal, i.e., the sentence imposed would hamper the Department of Corrections' efforts in rehabilitating defendant, and defendant's sentence will not act as a deterrent. Because defendant failed to raise these factors at sentencing, he has waived consideration of these factors on appeal. *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992).