

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL FISH,

Defendant-Appellant.

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UNPUBLISHED

September 13, 1996

No. 172471

LC No. 93009532

Before: Cavanagh, P.J., and Marilyn Kelly and J.R. Johnson,\* JJ.

PER CURIAM.

Defendant appeals as of right following his bench trial conviction for two counts of assault with intent to rob while unarmed. MCL 750.88; MSA 28.283. Defendant's sole argument on appeal is that there was insufficient evidence to sustain the conviction. We affirm.

When reviewing the sufficiency of the evidence following a bench trial, this Court views the evidence in the light most favorable to the prosecution. We determine whether a rational trier of fact could find that the essential elements of the crime were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), modified 441 Mich 1201 (1992); *People v Hunter*, 209 Mich App 280, 282; 530 NW2d 174 (1995).

The elements of assault with intent to rob while unarmed are: (1) an assault with force or violence, (2) an intent to rob and steal, and (3) defendant being unarmed. *People v Sanford*, 402 Mich 460; 265 NW2d 1 (1978); *People v Chandler*, 201 Mich App 611, 614; 506 NW2d 882 (1993). Specific intent can be inferred from the surrounding facts. See *People v Harris*, 110 Mich App 636, 641; 313 NW2d 354 (1981). Defendant argues that the prosecution submitted insufficient evidence on the first two elements. We disagree.

With respect to the assault on Daka, there was testimony that defendant struck Daka several times while struggling with her to get the keys to the car he sought to steal. A rational trier of fact could

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

find that an assault occurred with force or violence and that the assaultive act occurred simultaneously with the specific intent to rob. *Chandler, supra*.

With respect to the assault on Bojaj, even though defendant did not come into direct physical contact with him, he can be held accountable under an aiding and abetting theory. *People v Jones (On Rehearing)*, 201 Mich App 449, 451; 506 NW2d 542 (1993). A defendant may be charged as a principal but convicted as an aider and abettor. *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995).

Codefendant Canfield testified that he approached the car with the intent to steal it. Defendant then approached and helped force Daka from the car. Defendant struggled with Daka, and stated: "Bitch, give me the keys." While trying to obtain possession of the vehicle, Canfield struck Bojaj with the car door. A rational trier of fact could find beyond a reasonable doubt that defendant aided Canfield in the commission of this crime. Furthermore, at the time defendant rendered aid to Canfield, defendant intended to steal the car and used force and violence to achieve that end. Therefore, sufficient evidence was presented to sustain the convictions.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Marilyn Kelly

/s/ J. Richardson Johnson