

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NATHANIEL JOHN WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

September 20, 1996

No. 182597

LC No. 94-006997

Before: Doctoroff, C.J., and Bandstra and Hood, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279. Defendant pleaded guilty to habitual offender, third offense, MCL 769.11; MSA 28.1083. Defendant was sentenced to eighty months to twenty years in prison. Defendant now appeals on several grounds. We affirm.

Defendant first argues that the evidence presented at trial was insufficient to prove him guilty beyond a reasonable doubt as an aider and abettor to the crime of assault with intent to do great bodily harm. We disagree. In determining whether the prosecution presented sufficient evidence to sustain a conviction, this Court must consider the evidence in a 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 Vaughn*, 200 Mich App 32, 35; 504 NW2d 2 (1993).

The essential elements of aiding and abetting are (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed the acts or gave encouragement which assisted the commission of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement. *People v Jones* (On rehearing), 201 Mich App 449, 451; 506 NW2d 542 (1993). Defendant argues that the testimony relied on by the trial court was not credible and that the prosecution failed to prove that he intended the commission of the assault.

At trial, Beverly Richardson testified that, on the date in question, defendant appeared at her house and told her to tell David Graves that, "it's on." Richardson understood this to mean that

defendant was going to do something to Graves. Graves was the boyfriend of Richardson's daughter. Later that same evening, defendant stopped at Richardson's house again, exchanged antagonistic words with Graves in the driveway, but left without further incident. At approximately 9:30 p.m., Richardson was working in her front yard with Graves when defendant returned to Richardson's house a third time. This time, defendant brought two individuals with him to Richardson's house. Defendant testified that he picked up the two friends at approximately 9:30 p.m., and arrived at Richardson's house with the understanding that a fight might break out.

As defendant and his associates approached Richardson's house, Richardson saw defendant and one of the other men with a gun. Richardson told the men not to make trouble near her home because her grandchildren were inside. As the men began to approach the house, Richardson and Graves retreated inside. As she attempted to ascend the stairs to the second floor of her home, Richardson was shot in the hip. Graves was not injured.

Richardson's daughter, who had been inside the house, came to the front door when she heard her mother calling to defendant. Richardson's daughter testified that both defendant and his friend were carrying guns. Defendant, however, testified that he did not have a gun, that he did not know his friend had a gun, and that he told his friend not to shoot once he realized that his friend was armed. Immediately after the shooting occurred, defendant ran away from the house. He testified that he fled because he was on parole at the time.

The trial court found that, although Richardson's testimony contained some inconsistencies, she was consistent on the point that someone had a gun. This Court will defer questions of credibility to the trial court. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). The trial court did not believe defendant's testimony that he was unaware that his friend was armed until it was too late. This, too, was a question of credibility for the trial court to decide.

The trial court inferred that defendant intended the commission of the assault based on the following evidence: He picked up his friends before confronting Graves, at least one of whom was armed; defendant had a confrontational attitude; and, even if the evidence was inconclusive as to whether defendant shot at the house, it was clear that he was at least present when the assault occurred. Questions of intent should be left to the trier of fact to resolve. *Daniels, supra* at 378; *People v Queenan*, 158 Mich App 38, 55; 404 NW2d 693 (1989). 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 (1984). Viewing the evidence in a light most favorable to the prosecution, we find that there was sufficient evidence to show beyond a reasonable doubt that an assault occurred, that defendant assisted and induced the commission of the assault, and that defendant intended the commission of the assault.

Defendant next argues that the trial court failed to articulate on the record adequate findings of fact to support its guilty verdict. Again, we disagree. In actions tried without a jury, the trial court must find the facts and state separately its conclusions of law as to contested matters. *People v Feldmann*, 181 Mich App 523, 534; 449 NW2d 692 (1989). The findings and conclusions are sufficient if brief,

definite and pertinent, without over-elaboration of detail or particularization of facts. *People v Lewis*, 168 Mich App 255, 268; 423 NW2d 637 (1988). Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995).

The record reveals that the trial court found that an assault had clearly occurred, that defendant was present at the scene of the assault and that defendant brought with him at least one other individual who was armed. The trial court further found that defendant had a confrontational attitude, that defendant intended at least a fight with Graves and that defendant acted in concert with his associates in committing the assault. Thus, the trial court sufficiently articulated on the record its findings of fact for determining defendant's guilt.

Finally, defendant claims that the trial judge failed to recognize the consecutive nature of his sentences and that she was essentially imposing a 27-year, four-month sentence on defendant. We disagree. Defendant was on parole at the time he committed the instant offense. The trial judge ordered that defendant's sentence for the instant offense be served consecutive to defendant's parole sentence. The consecutive nature of sentences is not to be considered in fashioning a sentence.¹ *People v Hardy*, 212 Mich App 318, 320-321; 537 NW2d 267 (1995). Thus, defendant's claim is without merit.

Affirmed.

/s/ Martin M. Doctoroff
/s/ Harold Hood
/s/ Richard A. Bandstra

¹ In any event, defendant's argument that he must serve the balance of his prior sentence before beginning to serve the sentence in this case is no longer a valid contention, pursuant to *Wayne Co Prosecutor v Corrections*, 451 Mich 569; 548 NW2d 900 (1996).