

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES ROBINSON,

Defendant-Appellant.

UNPUBLISHED
October 18, 1996

No. 186985
LC No. 94-011504

Before: Wahls, P.J., and Cavanagh and J.F. Kowalski,* JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction of felonious assault, MCL 750.82; MSA 28.277. Defendant was sentenced to three years probation. We affirm.

Defendant's sole claim on appeal is that the prosecution failed to present sufficient evidence at trial to support defendant's conviction for felonious assault. We disagree.

When reviewing a claim of insufficient evidence following a bench trial, this Court must view the evidence in a light most favorable to the prosecution and 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 Hutner*, 209 Mich App 280, 282; 530 NW2d 174 (1995). Circumstantial evidence, and reasonable inferences arising from the evidence, may constitute satisfactory proof of the elements of the offense. *Id.*

The elements of felonious assault are: 1) a simple assault, 2) aggravated by the use of a weapon, and 3) including the element of present ability or apparent present ability to commit a battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). A simple criminal assault has been defined as "either an attempt to commit a battery or an unlawful act which places another in reasonable apprehension of receiving an imminent battery." *Id.*

Viewing the evidence in the light most favorable to the prosecution, we find that the prosecution presented sufficient evidence to support defendant's conviction. Defendant placed the victim in

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

apprehension of imminent physical harm by breaking her windows and threatening to hurt her if she did not let him into her home. Defendant admitted breaking the living room windows to get in. The victim was frightened enough to call the police. Defendant knocked the phone from her hand. Both the victim and her daughter testified that defendant hit the victim over the head with a desk chair, and tried to hit her again.

Defendant's argument on appeal emphasizes the credibility of the witnesses, rather than the sufficiency of the evidence, as the basis for his appeal. This emphasis is misplaced. The credibility of witnesses is for the trier of fact to determine. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988). We will not resolve it anew. The above evidence was sufficient to support defendant's conviction.

Affirmed.

/s/ Myron H. Wahls
/s/ Mark J. Cavanagh
/s/ John F. Kowalski