

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONALD A. LEARST,

Defendant-Appellant.

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UNPUBLISHED  
November 5, 1996

No. 178532  
LC No. 94-131057 FC

Before: Corrigan, P.J., and Taylor and D. A. Johnston,\* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, on an aiding and abetting theory. Defendant was sentenced to three to ten years' imprisonment. Defendant appeals as of right. We affirm, but remand for correction of the judgment or sentence.

On January 30, 1994, Rocco Perri was struck in the back by a bullet fired by Kenneth Talton. At the time he was shot, Perri was riding in a car driven by his friend, Ahmed Samer Ali. Defendant and Talton were chasing Ali and Perri in defendant's car when the shots were fired. Both defendant and Talton were arrested and charged with assault with intent to commit murder.

Defendant first argues that his conviction should be reversed because the prosecution failed to present sufficient evidence to establish that he intended to cause great bodily harm to Ali or Rocco, or that he specifically knew that Talton intended to cause great bodily harm to Ali or Rocco, and that the trial court's findings of fact were erroneous.

This Court reviews a challenge to the sufficiency of the evidence by viewing the evidence in the light most favorable to the prosecution and determining 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). Circumstantial evidence and reasonable inferences arising from the evidence may be

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

sufficient to prove the elements of a crime. *People v McKenzie*, 206 Mich App 425, 428; 522 NW2d 661 (1994).

The crime of assault with intent to do great bodily harm is a specific intent crime. *People v Eggleston*, 149 Mich App 665, 668; 386 NW2d 637 (1986). To convict defendant as an aider and abettor, the prosecution had to prove that defendant either possessed the specific intent to do great bodily harm to Perri or Ali, or that he knew that Talton specifically intended to do great bodily harm to Perri or Ali at the time defendant gave his aid or encouragement. *Id.* Because the law recognizes the difficulty of proving an actor's intent, minimal circumstantial evidence is sufficient to sustain a conclusion that a defendant entertained the requisite intent. *People v Strong*, 143 Mich App 442, 452; 372 NW2d 335 (1985).

Intent is a mental attitude made known by acts. *Id.* On the night Perri was shot, defendant did everything Talton told him to do. Defendant drove his vehicle to the area that Ali and Perri were in so that Talton could engage in a fist fight with Perri. Defendant then followed Talton's instructions and engaged in a high-speed chase of Ali's vehicle. When defendant approached Ali's vehicle and Talton reached out of the passenger's window and began firing defendant's gun at Ali's car, defendant did nothing to stop Talton. In fact, defendant turned his car around after Ali had spun out and drove back to the area where Ali was so that Talton could fire more shots at Ali's vehicle. In total, defendant stood by and watched as Talton fired six shots on two different occasions at Ali's car. " 'Intent is a secret of the defendant's mind', which he can disclose by his declarations or by his actions and 'his actions sometimes speak louder than words.' " *Id.*, quoting *People v Quigley*, 217 Mich 213, 217-218; 185 NW 787 (1921). The evidence which described defendant's actions on the night Perri was shot clearly established that defendant knew that Talton specifically intended to do great bodily harm to Perri or Ali.

Additionally, although the trial court's findings of fact were brief, they established that the trial court was aware of the relevant issues in the case and that the court correctly applied the law to the facts of defendant's case. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). Furthermore, the trial court's findings of fact were not clearly erroneous. MCR 2.613(C); *People v Kang*, 209 Mich App 540, 550; 531 NW2d 806 (1995).

Defendant argues, and the prosecution concedes, that defendant's judgment of sentence should be amended to reflect the actual crime of which he was convicted. We agree.

Defendant's judgment of sentence erroneously indicates that he was convicted of assault with intent to commit murder, MCL 750.83; MSA 28.278. Although defendant was charged with that crime, he was acquitted of that offense and was found guilty of the lesser offense of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279. Therefore, we remand this case to the trial court with instructions to prepare an accurate judgment of sentence and to forward the new judgment of sentence to the Department of Corrections.

Affirmed, but remanded for the reasons set forth above. We do not retain jurisdiction.

/s/ Maura D. Corrigan  
/s/ Clifford W. Taylor  
/s/ Donald A. Johnston