

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NEDRA MERRIWEATHER,

Defendant-Appellant.

UNPUBLISHED

March 4, 1997

No. 180401

Recorder's Court

LC No. 93-008904

Before: Jansen, P.J., and Reilly and W.C. Buhl,* JJ.

PER CURIAM.

Defendant appeals as of right from her jury trial conviction of assault with intent to commit great bodily harm less than murder, MCL 750.84; MSA 28.279. Defendant was sentenced to five years' probation. We affirm.

Defendant argues that insufficient evidence of her intent was presented to support her conviction for assault with intent to commit great bodily harm less than murder. We disagree. In determining whether sufficient evidence has been presented to sustain a conviction, this Court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 366; 285 NW2d 284 (1979).

Assault with intent to commit great bodily harm less than murder requires proof of (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); *People v Mitchell*, 149 Mich App 36, 38; 385 NW2d 717 (1986); CJI2d 17.7. "Great bodily harm" has been defined as "serious injury of an aggravated nature," *People v Troy*, 96 Mich 530, 537; 56 NW 102 (1893), and "serious and permanent bodily injury," *People v Miller*, 91 Mich 639, 643; 52 NW 65 (1892). Assault with intent to commit great bodily harm is a specific intent crime. The specific intent necessary to constitute the offense may be found in conduct as well as words.

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

People v Mack, 112 Mich App 605, 611; 317 NW2d 190 (1981); *People v Jackson*, 25 Mich App 596, 598; 181 NW2d 794 (1970).

Viewing the evidence in a light most favorable to the prosecution, we conclude that the prosecution presented sufficient evidence of defendant's intent. Defendant invited Hayden over to her apartment at 11:00 p.m., the time when she knew that she was going to be picked up by her two male friends. Defendant did not invite Hayden inside her apartment to discuss the previous evening's incident; rather, they sat outside on the porch and talked. Defendant went out to her friend's car and spoke with the occupants on two separate occasions during her conversation with Hayden. When Hayden went to leave, defendant accompanied him to his car which was parked in the lot next to her building. When a man approached Hayden and asked him what time it was, defendant told Hayden that there would not be any trouble. Hayden looked down at his watch and was hit in the jaw. Hayden saw defendant's friend's car behind the man who attacked him in the parking lot. Defendant blocked Hayden's access to his car door so he could not leave. Defendant failed to call the police or render any type of assistance to Hayden, whom she testified was a real good friend.

In addition, evidence was presented that defendant was the only person located on Hayden's right side. Hayden was kicked in the ribs on the right side of his body. Hayden heard defendant exclaim, "Kick his ass. I set you up," while he was being assaulted by defendant's friend. Hayden's jaw was broken and he sustained severe head injuries from the assault. A rational trier of fact could find beyond a reasonable doubt, based upon these facts, that defendant had the specific intent to assault Hayden with the intent to do great bodily harm.

Furthermore, we hold that there was also sufficient evidence presented to support a finding that defendant aided and abetted this crime. To support a finding that a defendant aided and abetted a crime, the prosecutor must show that (1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that 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 Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995); *People v Jones (On Rehearing)*, 201 Mich App 449, 451; 506 NW2d 542 (1993). An aider and abettor's state of mind may be inferred from all the facts and circumstances. *Turner, supra*.

Based on the above stated evidence, and viewing it in a light most favorable to the prosecution, we conclude that the prosecutor presented sufficient evidence of defendant's intent to aid and abet the assault on Hayden. A rational trier of fact could find beyond a reasonable doubt that defendant, at the very least, aided and abetted her friend's physical assault on Hayden.

Affirmed.

/s/ Kathleen Jansen
/s/ Maureen Pulte Reilly
/s/ William C. Buhl

