

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TAWON WRIGHT,

Defendant-Appellant.

UNPUBLISHED

April 15, 1997

No. 195232

Recorder's Court

LC No. 95-013441

Before: Holbrook, Jr., P.J., and Fitzgerald and Smolenski, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of assault with intent to commit murder, MCL 750.83; MSA 28.278, possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and unlawfully driving away an automobile, MCL 750.413; MSA 28.645. He was sentenced to concurrent prison terms of seven to fifteen years for the assault conviction, forty to sixty months for the UDAA conviction, and to a consecutive two-year term for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant's sole argument is that the prosecutor failed to present sufficient evidence demonstrating defendant's specific intent to kill the victim. When reviewing a claim that the evidence was insufficient, this Court must view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Herbert*, 444 Mich 466, 473-474; 511 NW2d 654 (1993).

To sustain a conviction of assault with intent to commit murder, the prosecutor must prove (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v Warren (After Remand)*, 200 Mich App 586, 588; 504 NW2d 907 (1993). Direct evidence of an intent to kill need not be presented. Intent, like any other fact, may be proven indirectly by inference from the conduct of the accused and surrounding circumstances from which it logically and reasonably follows. *People v Lawton*, 196 Mich App 341, 349; 492 NW2d 810 (1992).

Viewing the evidence in the light most favorable to the prosecution, the evidence revealed that defendant's only reason for showing up at 6:30 a.m., the time the victim usually left for work, was to

confront the victim with a shotgun. Defendant stopped the victim and swore at him, and removed a gun from under his coat upon approaching the victim. The victim testified that defendant shot him at close range and subsequently clubbed him with the shotgun. These facts, and the reasonable inferences that can be drawn therefrom, are sufficient to allow a reasonable trier of fact to conclude that defendant intended to kill the victim.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ E. Thomas Fitzgerald

/s/ Michael R. Smolenski