

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN REED,

Defendant-Appellant.

UNPUBLISHED

July 18, 1997

No. 193983

Recorder's Court

LC No. 95-010018

Before: Murphy, P.J., and Michael J. Kelly and Gribbs, JJ.

PER CURIAM.

Defendant appeals from his bench trial convictions of felonious assault, MCL 750.82; MSA 28.277, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to one to four years on the felonious assault conviction, and to a mandatory two-year term on the felony-firearm conviction. We affirm.

Defendant argues on appeal that the trial court's factual findings were clearly erroneous, and that there was insufficient evidence to support his convictions. We disagree.

A trial court's findings of fact will not be reversed unless they are clearly erroneous. *People v McElhaney*, 215 Mich App 269, 273; 545 NW2d 18 (1996); *People v Haywood*, 209 Mich App 217, 226; 530 NW2d 497 (1995). A finding is clearly erroneous if it leaves this Court with a definite and firm conviction that a mistake has been made. *McElhaney, supra*; *People v Kvam*, 160 Mich App 189, 196; 408 NW2d 71 (1987).

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 Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

The elements of felonious assault are: (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery. *People v*

Davis, 216 Mich App 47, 53; 549 NW2d 1 (1996). The elements of felony-firearm are that the defendant possessed a firearm during the commission or attempt to commit a felony. *Id.*

Viewing the evidence in the light most favorable to the prosecution, *Wolfe, supra*, we hold that sufficient evidence was presented as to the crimes of felonious assault and felony-firearm such that a rational trier of fact could find that the evidence presented proved beyond a reasonable doubt that defendant assaulted DaJuane McKenzie, with a dangerous weapon, with the intent to injure or place McKenzie in reasonable apprehension of an immediate battery. *Davis, supra*. Testimony was presented that defendant walked onto a porch, pointed his gun at McKenzie and the others standing on the porch, and verbally agreed with threatening remarks directed to those on the porch. McKenzie remembered defendant pulling out his gun and showing it to everyone on the porch so that they would know that he was carrying a gun. Based upon these facts, we hold that sufficient evidence was presented to support defendant's convictions.

Furthermore, we conclude that the trial court's findings of fact were not clearly erroneous. *McElhaney, supra*. The trial court's findings that defendant was guilty of the charged offenses based upon his forceful conduct during the incident do not leave us with a definite and firm conviction that a mistake has been made. *Id.*

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Roman S. Gibbs