

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM K. JONES,

Defendant-Appellant.

UNPUBLISHED
September 5, 1997

No. 191855
Recorder's Court
LC No. 95-003586 FH

Before: O'Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Defendant appeals by right his bench trial convictions of first-degree home invasion, MCL 750.110; MSA 28.305, and felonious assault. MCL 750.82; MSA 28.277.

Defendant first contends that the evidence was insufficient to support his conviction. The testimony of the victim, however, if accepted by the trier of fact, would have established every element of both offenses. Accordingly, a rational trier of fact could properly have found defendant's guilt of those offense proved beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 269-270; 380 NW2d 11 (1985).

With respect to the great weight of the evidence, defendant's exculpatory version of the incident failed to account for the arrival of police simultaneously with defendant at the victim's home. The issue presented was one of credibility and the trier of fact could properly reject defendant's testimony and find the testimony of the victim convincing. *People v Jackson*, 390 Mich 621, 625 n 2; 212 NW2d 918 (1973). The trial court's findings are not against the great weight of the evidence.

Finally, defendant contends that his conviction for both first degree home invasion and felonious assault violates double jeopardy. Breaking and entering an occupied dwelling while armed with a dangerous weapon and with the intent to commit felonious assault is not equivalent to actually perpetrating felonious assault once inside, and dual convictions do not violate defendant's double jeopardy rights. *People v Joseph*, 114 Mich App 70; 318 NW2d 609 (1982); *People v White*, 168

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

Mich App 596; 425 NW2d 193 (1988); *People v West*, 122 Mich App 517; 332 NW2d 517 (1983).

Affirmed.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Carole F. Youngblood