

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT JAMES McGESHICK,

Defendant-Appellant.

UNPUBLISHED
October 21, 1997

No. 192046
Iron Circuit Court
LC No. 95-007839-FH

Before: Murphy, P.J., and Hood and Bandstra, JJ.

MEMORANDUM.

Defendant was convicted by a jury of felonious assault, MCL 750.82; MSA 28.277, and then pleaded guilty to habitual offender second offense, MCL 769.10; MSA 28.1082. He was sentenced to one to six years' imprisonment as an habitual offender and appeals as of right. We affirm.

Defendant claims that insufficient evidence was presented at trial to establish that he possessed the requisite specific intent required to commit a felonious assault. We disagree.

When determining whether sufficient evidence was presented at trial to support a conviction, this Court views the evidence in a light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the charged crime were proven beyond a reasonable doubt. *People v Lugo*, 214 Mich App 699, 710; 542 NW2d 921 (1995). The essential elements of felonious assault are: (1) an assault, (2) with a dangerous weapon, and (3) with an intent (a) to injure, or (b) to place a victim in reasonable fear or apprehension of an immediate battery. *People v Crook*, 162 Mich App 106, 107; 412 NW2d 661 (1987); *People v Joeseype Johnson*, 407 Mich 196, 210; 284 NW2d 718 (1979) (requiring specific intent for felonious assault). Intent may be inferred from facts and circumstances established beyond a reasonable doubt. *People v Strong*, 143 Mich App 442, 452; 372 NW2d 335 (1985).

The record contains sufficient evidence to support defendant's conviction. There was evidence that: (1) the assault took place within the context of a heated exchange between defendant and the victim; (2) defendant grabbed a kitchen knife and lunged at his victim; (3) the victim actually suffered

physical injury; and (4) the victim appeared stunned and expressed pain or hurt as he was stabbed. A rational jury could have established a felonious assault from this record.

Defendant also claims that he was so intoxicated that he was unable to form the specific intent necessary to complete the offense of felonious assault. Intoxication may negate the specific intent element of a charged crime. *People v Savoie*, 419 Mich 118, 134; 349 NW2d 139 (1984); *People v Polk*, 123 Mich App 737, 740; 333 NW2d 499 (1982) (specifically cited to negate the requisite specific intent of felonious assault). In this case, the jury received an instruction on intoxication and was informed that it needed to decide whether defendant's "mind was so overcome by alcohol that he could not have formed" the necessary intent. While defendant argues that he was too intoxicated to have formed the intent, there was testimony that defendant was not overly intoxicated. Therefore, there was support in the record for the jury's determination that defendant was guilty of the specific intent crime of felonious assault.

Affirmed.

/s/ William B. Murphy

/s/ Harold Hood

/s/ Richard A Bandstra