

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONALD HUDSON,

Defendant-Appellant.

UNPUBLISHED

March 20, 1998

No. 199573

Detroit Recorder's Court

LC No. 96-005241

Before: Holbrook, Jr., P.J., and White and Fitzgerald*, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of aggravated stalking, MCL 750.411i; MSA 28.643(9), and assault and battery, MCL 750.81; MSA 28.279. Defendant was placed on ten years' probation for the aggravated stalking conviction, the first year to be spent in jail. Defendant was also sentenced to serve ninety days on his assault and battery conviction, with that sentence to run concurrent with his aggravated stalking sentence. Defendant appeals as of right. We affirm.¹

Defendant argues that the evidence presented at trial did not support the trial court's finding that he had violated a restraining order to stay away from his wife, and was therefore guilty of aggravated stalking. We disagree with defendant's assertion that the trial court's finding that he was guilty of aggravated stalking was predicated upon a violation of a restraining order. The record clearly indicates that the trial court based the aggravated stalking conviction on the finding that defendant had made repeated credible threats against his wife. MCL 750.411i(2)(c); MSA 28.643(9)(2)(c). Defendant also argues that the evidence did not support a conviction based on MCL 750.411i(2)(c); MSA 28.643(9)(2)(c). We disagree. After reviewing the entire record, and deferring to a trial court's superior ability to assess witness credibility when presiding at a bench trial, *People v Cyr*, 113 Mich App 213, 222; 317 NW2d 857 (1982), we conclude that the trial court's factual findings were not clearly erroneous. See *People v Brown*, 205 Mich App 503, 505; 517 NW2d 806 (1994). Rather, the evidence strongly indicates that defendant did indeed make several credible threats of violence against his wife.

* Former Supreme Court justice, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ John W. Fitzgerald

¹ After defendant was released from jail, he was charged with violating the terms of his probation by contacting his wife and failing to enter into batterer's counseling. At the October 13, 1997 probation revocation hearing, the trial court concluded that defendant had committed the alleged violations, as well as having committed simple assault against his wife. On October 24, 1997, the trial court sentenced defendant to an additional one and one-half to five years' imprisonment on the aggravated stalking conviction and three months imprisonment for assault, with the later sentence to run concurrent with the former. Defendant's appeal does not address any matters surrounding the probation revocation proceedings. Additionally, defendant is not appealing his original assault and battery conviction.