

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RENARDO HOLMES,

Defendant-Appellant.

UNPUBLISHED

March 24, 1998

No. 196693

Recorder's Court

LC No. 94-007570

Before: Cavanagh, P.J., and White and Young, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial conviction for assault with intent to commit murder, MCL 750.83; MSA 28.278. Defendant was sentenced to nine to twenty years' imprisonment. We affirm.

Defendant argues that the prosecution failed to prove beyond a reasonable doubt that he intended to kill the complainant. We disagree. In reviewing a challenge to the sufficiency of the evidence, we must view the evidence in a light most favorable to the prosecution and determine whether a rational factfinder could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

The elements of assault with intent to commit murder are (1) an assault, (2) with actual intent to kill, (3) which, if successful, would make the killing murder. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). Circumstantial evidence and reasonable inferences arising therefrom may constitute satisfactory proof of the elements of the offense. *People v Barclay*, 208 Mich App 670, 674; 528 NW2d 842 (1995). The intent to kill may be proven by inference from any facts in evidence, including

“the nature of the defendant’s acts constituting the assault; the temper or disposition of mind with which they were apparently performed, whether the instrument and means used were naturally adapted to produce death, his conduct and declarations prior to, at the time, and after the assault, and all other circumstances calculated to throw light upon

the intention with which the assault was made.” [*People v Drayton*, 168 Mich App 174, 177; 423 NW2d 606 (1988), quoting *Roberts v People*, 19 Mich 401, 415 (1870).]

In this case, defendant’s intent to kill could be inferred from his prior threat to the complainant, the number of times he stabbed the complainant, the location of those stab wounds, and the fact that defendant’s attack ended only when a bystander intervened. Moreover, during the attack, defendant told the complainant: “I am tired of you f----- with me and I warned you what I would do.” Viewed in a light most favorable to the prosecution, there was sufficient evidence from which the trial court could have found that the elements of assault with intent to murder, including the intent to kill, were proven beyond a reasonable doubt.

Defendant next argues that the trial court’s findings of fact were inadequate because the court failed to consider whether the existence of adequate provocation should have mitigated the charged offense to the lesser offense of assault with intent to do great bodily harm. See *People v Mitchell*, 149 Mich App 36, 38-39; 385 NW2d 717 (1986). A trial court sitting without a jury must, in making its findings, address those theories argued by the defendant and which are supported by the facts. *People v Maghzal*, 170 Mich App 340, 347; 427 NW2d 552 (1988). Findings of fact are sufficient if it appears from the record that the trial court was aware of the relevant issues in the case and correctly applied the law. *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). Here, defendant’s claim of adequate provocation simply was not supported by the evidence. Moreover, the trial court noted the evidence that defendant had previously threatened the complainant and that it was therefore “beyond question that there was an intent to commit murder here.” The trial court’s findings were sufficient.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Helene N. White
/s/ Robert P. Young, Jr.