

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEROY P. TOWNSEND,

Defendant-Appellant.

UNPUBLISHED

March 24, 1998

No. 199987

Recorder's Court

LC No. 96-005551-FY

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

MEMORANDUM.

Defendant appeals as of right from his jury trial convictions of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, felonious assault, MCL 750.82; MSA 28.277, possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and malicious destruction of personal property over \$100, MCL 750.377a; MSA 28.609(1). Defendant was sentenced to six to ten years for the assault with intent to do great bodily harm less than murder conviction, two to four years for the felonious assault conviction, two to four years for the malicious destruction of personal property conviction, and two years for the felony-firearm conviction. The assault with intent to do great bodily harm less than murder, felonious assault and malicious destruction of personal property sentences are to run concurrently with each other and consecutive to the felony-firearm sentence. We affirm.

Defendant's sole issue on appeal is that the evidence at trial was not sufficient to support his conviction for assault with intent to do great bodily harm less than murder. We disagree. In reviewing a claim of insufficiency of the evidence on appeal, this Court must view the evidence in a light most favorable to the prosecution to determine whether a rational factfinder could have found the essential elements of the crime proved beyond a reasonable doubt. *People v Reeves*, 222 Mich App 32, 34; 564 NW2d 476 (1997).

The elements of assault with intent to do great bodily harm less than murder are: (1) an attempt or offer with force or violence to do corporal hurt to another, (2) coupled with an intent to do great

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

bodily harm less than murder. *People v Peña*, 224 Mich App 650, 659; 569 NW2d 871 (1997). No actual physical injury is required for the elements of assault with intent to do great bodily harm less than murder to be established. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992). Intent can be inferred from the fact that a dangerous weapon was used. *People v Crane*, 27 Mich App 201, 204; 183 NW2d 307 (1970).

Viewing the evidence in a light most favorable to the prosecution, we conclude that the prosecution presented sufficient evidence that defendant intended to do great bodily harm less than murder to Officer Spencer. Officer Spencer was about thirty five feet from defendant when defendant fired two shots in his direction. The second shot was close enough that Officer Spencer heard it “whiz” as it passed him. Furthermore, two other witnesses to the shooting testified that defendant fired at Officer Spencer. Viewing the evidence in a light most favorable to the prosecution, sufficient evidence was presented at trial to support defendant’s conviction of assault with intent to do great bodily harm less than murder.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ John W. Fitzgerald