

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHERRIE L. BLACKMON,

Defendant-Appellant.

UNPUBLISHED

October 5, 2001

No. 221291

Wayne Circuit Court

LC No. 98-008739

Before: Cavanagh, P.J., and Markey and Cooper, JJ.

MEMORANDUM.

Defendant appeals as of right from a nonjury verdict of assault with intent to do great bodily harm less than murder, MCL 750.84, for which he was sentenced to eighteen months' probation. We affirm.

In reviewing a nonjury criminal case, this Court "is required to review the entire record to determine whether the trial judge clearly erred." *People v Rush*, 48 Mich App 478, 482; 210 NW2d 467 (1973). This Court must review the record to determine whether there was sufficient evidence to warrant a verdict of guilty beyond a reasonable doubt. *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

The elements of assault with intent to do great bodily harm less than murder are "(1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder." *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). "Great bodily harm means a physical injury that could seriously and permanently harm the health or function of the body." CJI2d 17.7(4). This is a specific intent crime, *Parcha*, *supra*, and the defendant's intent may be inferred from all the facts and circumstances surrounding the crime. *People v Lugo*, 214 Mich App 699, 709-710; 542 NW2d 921 (1995). The defendant's intent can be inferred from the defendant's acts, the means employed to commit the assault itself, and the extent of the victim's injuries, although actual physical injury is not a necessary element of the crime. *People v Harrington*, 194 Mich App

424, 430; 487 NW2d 479 (1992); *People v Cunningham*, 21 Mich App 381, 384; 175 NW2d 781 (1970).

The evidence showed that defendant discovered two boys on the roof of a building in which he was staying, pointed a gun up at them through a gaping hole in the roof, and fired as they started to run. One of the boys was struck on the right side of his body. Such evidence is sufficient to prove that defendant harbored the requisite intent. See *Parcha, supra* at 239; *People v Buckner*, 144 Mich App 691, 696-697; 375 NW2d 794 (1985); *People v Johnson*, 54 Mich App 303, 304-305; 220 NW2d 705 (1974).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jessica R. Cooper