

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

CHARLES IRONSI JOHNSON,

Respondent-Appellant.

---

UNPUBLISHED

September 18, 2003

No. 240633

Kalamazoo Circuit Court

LC No. 01-000343-DL

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right his conviction of assault and battery, MCL 750.81(1), entered after a bench trial. We affirm.

Respondent (DOB 5-29-93) was charged with assault and battery as a result of an incident that occurred on the playground at his school. Respondent was eight years old at the time of the incident. Lynne Darrow, a teacher, testified that she was sitting on the playground with a group of children when she received a kick to back in the area of her right kidney. She did not see who kicked her; however, another teacher told her that respondent kicked her in the back. Darrow missed several days' work due to pain in her back. Crystal Massey, a teacher, testified that she saw respondent kick Darrow in the back. Massey indicated that earlier in the morning she and other teachers had cautioned respondent about kicking wood chips on the playground because someone could be injured by flying chips. Respondent became angry when he was placed in the timeout area and said that he hated teachers. Massey testified that respondent did not trip when he kicked Darrow, and his foot did not hit the ground before it made contact with Darrow's back. Respondent told a police officer that the incident was a mistake or that he did not mean to kick Darrow. Respondent testified that if he kicked Darrow he did so with his heel because he was facing away from her, and that he did not mean to do so.

The trial court found respondent guilty as charged. The trial court found that the evidence showed that respondent kicked Darrow in the back. The trial court observed that the issue was whether the prosecution proved that respondent had the requisite intent, and found that the requisite intent could be inferred from the evidence that on the morning of the incident respondent was told to not kick wood chips but continued doing so. Respondent acknowledged

that he continued to engage in kicking behavior. Subsequently, the trial court discharged respondent.

The standard of proof in a trial involving a juvenile is beyond a reasonable doubt. MCR 3.942(C); *In re Weiss*, 224 Mich App 37, 42; 568 NW2d 336 (1997).

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000). A finding is considered to be clearly erroneous if, after a review of the entire record, we are left with the firm and definite conviction that a mistake was made. *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

An assault is an attempt to commit a battery or an unlawful act that places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). A battery is the willful touching of another person. *People v Lakeman*, 135 Mich App 235, 239; 353 NW2d 493 (1984). Assault and battery is a specific intent crime. *Id.* at 240. A reckless or criminally negligent act will not support a conviction of assault and battery. *Id.* at 239-240. Specific intent can be inferred from the surrounding facts and circumstances. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983).

Respondent argues that insufficient evidence existed to support his conviction of assault and battery. We disagree and affirm respondent's conviction. The trial court properly observed that the principal issue raised by the evidence was whether the requisite specific intent could be inferred from the facts and circumstances. The trial court found that respondent continued to engage in kicking behavior even after he had been warned against doing so, and that his behavior resulted in injury to Darrow. The trial court's findings are not entirely clear in that the trial court did not state whether it relied on Massey's testimony that respondent kicked Darrow, or whether it found that respondent was simply engaging in kicking behavior and kicked Darrow. Nevertheless, the evidence, viewed in a light most favorable to the prosecution, supported the trial court's verdict. Massey testified that respondent walked up to Darrow and kicked her in the back. Respondent did not trip, and his foot did not strike the ground when he kicked Darrow. This testimony supported a finding that respondent committed a battery, and supported an inference that he acted with the requisite intent. Because the evidence proved beyond a reasonable doubt that respondent committed an assault and battery, we affirm the conviction

even if the trial court reached the right result for the wrong reason. *People v Lyon*, 227 Mich App 599, 612-613; 577 NW2d 124 (1998).

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Kurtis T. Wilder