

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES AUSTIN,

Defendant-Appellant.

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UNPUBLISHED

March 11, 2003

No. 238185

Wayne Circuit Court

LC No. 01-003570

Before: Kelly, P.J., and White and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for felonious assault, MCL 750.82, and felony-firearm, MCL 750.227b. We affirm.

On appeal, defendant argues that there was insufficient evidence to support his convictions. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). “The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The elements of the crime of felonious assault are an assault, with a dangerous weapon, with the intent to injure or place a victim in reasonable fear or apprehension of an immediate battery. *People v Lawton*, 196 Mich App 341, 349; 492 NW2d 810 (1992). An intentional discharge of a firearm at a person within range is an assault. *Id.* Where complainant testified that defendant pointed a weapon at him, said he was going to kill him, and then fired the weapon, a rational finder of fact could conclude that the elements of the crime were proven beyond a reasonable doubt. A rational juror could also readily conclude that defendant possessed a firearm during the commission of this felony. MCL 750.227b.

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Helene N. White

/s/ Joel P. Hoekstra