

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
May 2, 2006

v

TEKISHAIA LASHAWN WINTERS,
Defendant-Appellant.

No. 260640
Wayne Circuit Court
LC No. 04-008269-01

Before: White, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of aggravated assault, MCL 750.81a, and was sentenced to one year probation. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that there was insufficient evidence to convict her of aggravated assault. In a criminal case, no special steps are needed to preserve a challenge to the sufficiency of the evidence on appeal. *People v Hawkins*, 245 Mich App 439, 457; 628 NW2d 105 (2001). This Court reviews a claim that the evidence was insufficient to support a defendant's conviction de novo. *Id.* This Court must view the evidence in a light most favorable to the prosecution and determine whether a reasonable juror could conclude that all the elements of the crime were proved beyond a reasonable doubt. *People v Dewald*, 267 Mich App 365, 371; 705 NW2d 167 (2005). In addition, this Court should not interfere with the fact-finder's role in determining the credibility of witnesses and weighing the evidence. *Id.*

Defendant was originally charged with a felony – assault with the intent to do great bodily harm less than murder, MCL 750.84. However, defendant was convicted of misdemeanor aggravated assault, MCL 750.81a. Aggravated assault occurs when: (1) the defendant committed an assault without a weapon, (2) the defendant inflicted a serious or aggravated injury, and (3) the defendant did not have the intent to commit murder or to inflict great bodily harm. MCL 750.81a(1); see, also, *People v Brown*, 97 Mich App 606, 610-611; 296 NW2d 121 (1980); CJI2d 17.6.

First, viewing the evidence in a light most favorable to the prosecution, there is sufficient evidence that defendant assaulted Candace Glover. An assault occurs when there is either an attempt to commit a battery or an unlawful act that places another in reasonable fear of receiving

an immediate battery. *People v Reeves*, 458 Mich 236, 239-240; 580 NW2d 433 (1998). Three witnesses testified that defendant hit Glover in the face with a glass during a bar fight that began between Glover, the complainant, and Kathleen Dudley, defendant's friend. Glover testified that defendant slashed Glover's face with a broken glass. In addition, Calvin Murphy, who was working as a bouncer, testified that he saw defendant cut Glover's face with a glass while he was trying to break up the fight. Further, Oscar Brown, who was also working as a bouncer, stated that he witnessed defendant "swinging a glass or bottle at" Glover's face. Dudley's testimony contradicted parts of Glover's and Murphy's testimony. However, the bouncers removed Dudley from the bar before they removed Glover and defendant, so Dudley would not have seen what occurred during her absence. Moreover, any inconsistencies or contradictions in the witnesses' testimony involve credibility issues that "are left to the trier of fact and will not be resolved anew by this Court." *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). The trial court believed Glover and the two bouncers because it held that "the evidence clearly shows in this case that it was the defendant that cut [Glover]." Thus, the testimony of these three witnesses was sufficient evidence to establish that defendant assaulted Glover.

Second, there was sufficient evidence that defendant caused a serious or aggravated injury to Glover's face. A serious or aggravated injury is "a physical injury that requires immediate medical treatment or that causes disfigurement, impairment of health, or impairment of a part of the body." *People v Norris*, 236 Mich App 411, 415 n 3; 600 NW2d 658 (1999), quoting CJI2d 17.6. The two police officers who arrived after the fight ended testified that Glover had a bleeding four-inch cut on her face. Moreover, Glover explained that she was taken by ambulance to the hospital where she received 55 stitches. Because Glover's injury was serious enough to warrant immediate medical attention and could be considered disfiguring, there was sufficient evidence that Glover suffered a serious or aggravated injury. In addition, the testimony of Glover and the two bouncers clearly identified defendant as the person who caused Glover's injury. Therefore, there was sufficient evidence to prove beyond a reasonable doubt that defendant committed aggravated an assault upon Glover.

Affirmed.

/s/ Helene N. White
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot