

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
February 23, 2016

v

DAVID ALLEN GOWENS, JR.,
Defendant-Appellant.

No. 325464
Calhoun Circuit Court
LC No. 2014-001633-FC

Before: HOEKSTRA, P.J., and METER and M. J. KELLY, JJ.

PER CURIAM.

Defendant, David Allen Gowens, Jr., appeals by right his jury convictions of assault with intent to do great bodily harm less than murder (AGBH), MCL 750.84(1)(a), and carrying a concealed weapon, MCL 750.227(1). The trial court sentenced Gowens as a fourth-offense habitual offender, MCL 769.12, to serve concurrent terms of 8 to 20 years in prison for AGBH, and 5 to 10 years in prison for carrying a concealed weapon. On appeal, Gowens challenges whether there was sufficient evidence to support his conviction of AGBH. Because we conclude that there was sufficient evidence to support the jury’s verdict on this charge, we affirm.

This Court reviews a challenge to the sufficiency of the evidence by reviewing the “record evidence de novo in the light most favorable to the prosecution” and determining “whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *People v Roper*, 286 Mich App 77, 83; 777 NW2d 483 (2009). This Court’s review of a challenge to the sufficiency of the evidence is deferential; it is for the jury, not this Court, to determine what inferences may be fairly drawn from the evidence and the weight to be accorded those inferences. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010), overruled not in relevant part *People v Jackson*, 498 Mich 246; 869 NW2d 253 (2015).

In order to establish that Gowens committed AGBH, the prosecution had to prove beyond a reasonable doubt that Gowens attempted or threatened “with force or violence to do corporal harm to another” and did so with the “intent to do great bodily harm less than murder,” which is “intent to do serious injury of an aggravated nature.” *People v Stevens*, 306 Mich App 620, 628; 858 NW2d 98 (2014) (quotation marks and citation omitted).

At trial, Michael Williams testified that he arrived at his home shortly after midnight in February 2014. He saw his mother and another man sitting in a car near the driveway. He suspected that Gowens might also be present because Gowens and his mother were often together. The owner of Williams' home and police officers had recently ordered Williams' mother and Gowens to stay away from the home when Williams was there because Williams and Gowens had a contentious relationship.

Williams said he pulled into the driveway and got out of his car. As Williams walked up the driveway, Gowens jumped out of a different car parked in the driveway and attacked him with a knife. Gowens stabbed the knife at Williams' chest, but Williams blocked it with his arm. Williams said they both fell to the ground and began to struggle. After Gowens stood, he tried to stab Williams again. Williams kicked Gowens and Gowens ran away.

A detective testified that Gowens initially denied being at Williams' home, but later changed his story. He said he was at the home and admitted that he had had an altercation with Williams after Williams hit him. Gowens denied that he was armed with a knife. At trial, Gowens testified that Williams attacked him with a knife, and that he wrestled the knife away from Williams. Although Gowens testified that he was unarmed and that Williams was the aggressor, the jury was free to disbelieve his version of events. See *Roper*, 286 Mich App at 88. The jury instead found Williams' version more credible and Williams' testimony established that Gowens assaulted him with force or violence. See *Stevens*, 306 Mich App at 628.

There was also sufficient evidence to support the jury's finding that Gowens assaulted Williams with the intent to "do serious injury of an aggravated nature." *Id.* "Because of the difficulty in proving an actor's intent, only minimal circumstantial evidence is necessary to show that a defendant had the requisite intent." *Id.* at 629. Intent to do great bodily harm may be inferred from a defendant's use of a dangerous weapon. *Id.* When a defendant stabs someone with a knife, a jury can "properly infer that the defendant intended to engage in conduct the natural and probable tendency of which would be to cause death or great bodily harm." *People v Davis*, 76 Mich App 187, 190; 256 NW2d 576 (1977). The injuries actually suffered by a victim may also be indicative of a defendant's intent. *Stevens*, 306 Mich App at 629.

Williams testified that, if he had not put his arm up to block Gowens thrust, Gowens would have stabbed his chest, heart, lung, or other vital organ. Moreover, there was testimony that Williams' injuries were life-threatening. This evidence was sufficient to allow a reasonable jury to find beyond a reasonable doubt that Gowens assaulted Williams with the requisite intent. *Id.*

Affirmed.

/s/ Joel P. Hoekstra
/s/ Patrick M. Meter
/s/ Michael J. Kelly