

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GAIL YVONNE JOHNSON,

Defendant-Appellant.

UNPUBLISHED

June 29, 2004

No. 247707

Wayne Circuit Court

LC No. 02-013121-01

Before: Griffin, P.J., and Cavanagh and Fort Hood, JJ.

MEMORANDUM.

Defendant was convicted, following a bench trial, of aiding and abetting assault with intent to murder, MCL 750.83. She was sentenced, as a habitual offender, second offense, MCL 769.10, to 3 ½ to 20 years' imprisonment. Defendant appeals as of right, and we affirm.

Witnesses testified that defendant was present during a heated argument involving the codefendant (defendant's husband), the victim, and the victim's daughter. The codefendant demanded his gun from defendant, indicating that he was going to shoot the victim. Prosecution witnesses testified that defendant handed codefendant the gun, and the victim was shot as she turned and left the area of the codefendant's vehicle. The codefendant testified that he was in the car with defendant when they were surrounded, and defendant pulled out a gun and fired it, even though he tried to stop her. Defendant exercised her right to remain silent. After being convicted, defendant moved for a new trial, alleging in an affidavit that pressure from her codefendant husband caused her to lie about her involvement in the shooting. The trial court denied the motion for a new trial.

Defendant alleges that the trial court erroneously concluded that she had the specific intent to support the assault with intent to commit murder conviction, the verdict was against the great weight of the evidence, and the denial of the motion for a new trial was a miscarriage of justice. We disagree. Defendant's argument is predominantly premised on her knowledge of the actions of her codefendant husband. However, intent may be inferred from all of the facts and circumstances. *People v Hardrick*, 258 Mich App 238, 246; 671 NW2d 548 (2003). Where there is credible evidence presented that both supports and negates the intent requirement, a factual question exists that is left for resolution by the trier of fact. *People v Neal*, 201 Mich App 650, 655; 506 NW2d 618 (1993). Because of the difficulty of proving a defendant's state of mind, minimal circumstantial evidence is sufficient. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). The assessment of credibility, when presented by two diametrically

opposed versions of events, rests with the trier of fact. *People v Lemmon*, 456 Mich 625, 646; 576 NW2d 129 (1998). We will not interfere with the trier of fact's role of determining the weight of the evidence or the credibility of the witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, modified 441 Mich 1201 (1992).

Defendant's challenge to her conviction and the denial of the motion for a new trial is premised on issues involving credibility and factual circumstances that were properly left for resolution by the trier of fact. Under the circumstances of this case, there was sufficient circumstantial evidence of intent to support the assault with intent to murder conviction based on an aiding and abetting theory, see *People v Carines*, 460 Mich 750, 757-758; 597 NW2d 130 (1999), and the verdict was not against the great weight of the evidence. See *Lemmon*, *supra*. The trial court properly denied the motion for a new trial, noting the underlying circumstances and defendant's knowledge of the system in light of her prior record.

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Karen M. Fort Hood