

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LATONYA CARROLL,

Defendant-Appellant.

UNPUBLISHED

November 18, 2010

No. 293584

Wayne Circuit Court

LC No. 08-019452-FH

Before: STEPHENS, P.J., and MARKEY and WILDER, JJ.

PER CURIAM.

Defendant was convicted of felonious assault, MCL 750.82, and sentenced to two years' probation. Defendant appeals by right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the prosecutor failed prove beyond a reasonable doubt that the object she assaulted the victims with was a dangerous weapon because the object was never identified. We disagree. This Court reviews a sufficiency of the evidence claim de novo. *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005). The evidence must be viewed in a light most favorable to the prosecution to determine whether a rational trier of fact could have found all essential elements of the crime were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 269-270; 380 NW2d 11 (1986).

“The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery.” *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). Defendant does not contest the existence of elements one and three in this case. In fact, defendant admits to fighting with the complainant at the Nortown Dairy. Instead, defendant argues that element two cannot be established because the object was never specifically identified.

With respect to this second element, MCL 750.82 states that the item can be “a gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon.” Furthermore, anything used in furtherance of an assault “and capable of inflicting serious injury” is considered a dangerous weapon. *People v Lange*, 251 Mich App 247, 256; 650 NW2d 691 (2002), quoting *People v Vaines*, 310 Mich 500, 505-506, 17 NW2d 729 (1945). Here, viewed in the light most favorable to the prosecution, a rational trier of fact could find this element was proved beyond a reasonable doubt by defendant's conduct and the surrounding circumstances.

First, multiple witnesses testified that defendant attacked the employees of Nortown Dairy with a “stick-like” object. Second, that the object was “capable of inflicting serious injury” was demonstrated by the fact that defendant was easily able to shatter many windows using it. A rational fact finder could infer an item capable of causing such significant property damage (breaking the windows of the dairy parlor) is equally capable of causing serious bodily injury.

Defendant relies on her own testimony that she never had anything in her hand. However, this Court must resolve all conflicts of evidence in favor of the prosecution. *Wilkins*, 267 Mich App at 738. Additionally, the trial court found that defendant was not credible, and “[s]pecial deference is given to a trial court’s findings when based on witness credibility.” *People v Sherman-Huffman*, 241 Mich App 264, 267; 615 NW2d 776 (2000). Accordingly, there was sufficient evidence for the trial court to determine beyond a reasonable doubt that defendant wielded a dangerous weapon; defendant’s claim fails.

We affirm.

/s/ Cynthia Diane Stephens

/s/ Jane E. Markey

/s/ Kurtis T. Wilder