

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT LEE EDWARDS,

Defendant-Appellant.

UNPUBLISHED

January 20, 1998

No. 196787

Calhoun Circuit Court

LC No. 95-003098-FH

Before: Neff, P.J., and Jansen and Markey, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of felonious assault, MCL 750.82; MSA 28.277. Defendant was sentenced to two years' probation, and a suspended six-month jail term, with credit for two days served, the jail term to be imposed in the event defendant fails to abide by the conditions of his probation. Defendant appeals as of right and we affirm.

Defendant argues that there was insufficient evidence to support his conviction for felonious assault.

In reviewing a challenge to the sufficiency of the evidence, this Court must consider the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could conclude that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). 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 Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). Circumstantial evidence and reasonable inferences drawn from the evidence may be sufficient to prove the elements of a crime. *People v Reeves*, 222 Mich App 32, 34; 564 NW2d 476 (1997). Further, an automobile can constitute a "dangerous weapon" within the meaning of the felonious assault statute. *People v Sheets*, 138 Mich App 794, 799; 360 NW2d 301 (1984).

In this case, defendant was driving a taxicab which was stopped by police. A few minutes before being stopped, the taxi was involved in an incident where a uniformed police officer, Mark Holso, had tried to stop the taxi by positioning himself in front of it. This occurred in a well lit area, and

Holso was waving his flashlight with one hand, his service gun was in the other hand, and he was yelling “stop, police.” The taxi, nevertheless, accelerated quickly, pulled away quickly, and although Holso was directly in front of it, it did not stop. The taxi came very close to Holso before he had to jump out of the way at the last second to avoid being hit. Holso testified that he was in fear of being hit.

Viewing this evidence in a light most favorable to the prosecution, a rational trier of fact could conclude that the essential elements of felonious assault were proven beyond a reasonable doubt.

Because we have found that there was sufficient evidence produced at trial to sustain defendant’s conviction of felonious assault, we need not address defendant’s second issue that retrial would violate double jeopardy.

Affirmed.

/s/ Janet T. Neff

/s/ Kathleen Jansen

/s/ Jane E. Markey