

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JADEL GARDNER,

Defendant-Appellant.

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UNPUBLISHED

May 21, 1999

No. 199983

Recorder's Court

LC No. 96-004646

Before: Griffin, P.J., and Cavanagh and Fitzgerald, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of felonious assault, MCL 750.82; MSA 28.277, and was sentenced to three years' probation. Defendant appeals as of right. We affirm.

On appeal, defendant contends that the record is devoid of any testimony that the assault victim had a reasonable apprehension of an immediate battery. We disagree. The victim and her nephew testified that defendant repeatedly threatened to cut the victim and brandished a box cutter razor within a few feet of the victim. Although the victim's nephew claimed that defendant was "all mouth" and that she would not cut the victim, the victim testified she was "frozen stiff" and that she did not want to turn her back to the defendant. Viewing the evidence in a light most favorable to the prosecution, *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994), the victim's testimony is sufficient to prove an apprehension-type felonious assault beyond a reasonable doubt.

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ E. Thomas Fitzgerald