

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GARY WADE TAYLOR,

Defendant-Appellant.

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UNPUBLISHED

May 21, 1999

No. 206349

Recorder's Court

LC No. 97-000090

Before: Markey, P.J., and Holbrook, Jr. and Neff, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to two years' imprisonment for the felony-firearm conviction, followed by concurrent prison terms of three to fifteen years for the armed robbery conviction and three to ten years for the assault with intent to do great bodily harm less than murder conviction. Defendant appeals by right from his convictions. We affirm.

Defendant's first claim on appeal is that there was insufficient evidence to support his conviction of assault with intent to do great bodily harm less than murder. Specifically, defendant argues that there was no evidence to establish that he acted with the specific intent to commit great bodily harm less than murder. We disagree.

In determining whether there was sufficient evidence to sustain a conviction, we must view the evidence in a light most favorable to the prosecution and decide whether any rational trier of fact could have found guilt beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515-516; 489 NW2d 748, amended on other grounds 441 Mich 1201 (1992). Proof of the elements of a crime can be found in circumstantial evidence and reasonable inferences arising from the evidence. *People v Lugo*, 214 Mich App 699, 710; 542 NW2d 921 (1995). Assault with intent to do great bodily harm less than murder is a specific intent crime. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). The specific intent necessary to constitute the offense may be inferred from the defendant's conduct or words. *People v Mack*, 112 Mich App 605, 611; 317 NW2d 190 (1981).

Viewing the evidence in the instant case in a light most favorable to the prosecution, a reasonable factfinder could infer that defendant intended to do great bodily harm less than murder. Evidence was presented that defendant took a handgun away from the victim during a struggle, aimed the gun at the victim's head, and shot the victim in the side of the face. An intent to commit great bodily harm can be inferred from defendant's conduct. See, e.g. *Parcha, supra*. The evidence was sufficient to sustain defendant's conviction for assault with intent to do great bodily harm less than murder.

Next, defendant claims that there was insufficient evidence to support his conviction of felony-firearm. Specifically, defendant argues that the black handgun that he possessed was not a real gun, but rather a water pistol and, therefore, he did not possess a firearm during the commission of a felony. Again, we disagree.

The black handgun that defendant carried into the restaurant was never recovered so there was no proof, other than defendant's word, that the black gun was not a real firearm. The evidence showed that defendant was in possession and control of the silver handgun that belonged to the victim at the time he shot the victim. Moreover, the trial court specifically found that defendant possessed the silver handgun at the time he demanded and received money from the cash register. There was evidence from which a reasonable factfinder could conclude that defendant possessed a firearm during the commission of the felony of assault with intent to do great bodily harm less than murder or the felony of armed robbery. Therefore, there was sufficient evidence to sustain defendant's felony-firearm conviction.

We affirm.

/s/ Jane E. Markey

/s/ Donald E. Holbrook, Jr.

/s/ Janet T. Neff