

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TYRONE PATTERSON,

Defendant-Appellant.

UNPUBLISHED

May 28, 1999

No. 203809

Recorder's Court

LC No. 96-005733

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

MEMORANDUM.

Following a bench trial, defendant was convicted of two counts of assault with intent to commit murder, MCL 750.83; MSA 28.278, for which he was sentenced to concurrent terms of fifteen to twenty-five years' imprisonment, and one count of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.277, for which he was sentenced to the mandatory two-year consecutive term. Defendant appeals by right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant raises arguments challenging the sufficiency of the evidence to sustain his convictions. We review the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). The prosecution need not negate every reasonable theory of innocence, but must only prove its own theory beyond a reasonable doubt in the face of whatever contradictory evidence the defendant provides. *People v Quinn*, 219 Mich App 571, 574; 557 NW2d 151 (1996).

The elements of the crime of assault with intent to murder are (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. Circumstantial evidence and reasonable inferences arising from the evidence may constitute satisfactory evidence of the elements of the offense. The intent to kill may be proven by inference from any facts in evidence. *People v Warren (After Remand)*, 200 Mich App 586, 588; 504 NW2d 907 (1993).

Here, the physical evidence, when viewed in a light most favorable to the prosecution, is consistent with the theory that defendant intended to shoot through an apartment door in order to kill the person who had just closed the door on him, and inconsistent with defendant's accident defense. Moreover, as noted by the trial court, defendant's own testimony regarding his ability to engage in goal-directed activity despite his intoxication refutes his claim that he was too intoxicated to have formed the specific intent necessary for assault with intent to murder. We will not overturn a finding of specific intent on the basis of intoxication in the absence of overwhelming evidence of the requisite level of incapacitation. See *People v Anderson*, 166 Mich App 455, 476-477; 421 NW2d 200 (1988).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ E. Thomas Fitzgerald