

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARIO A. IRVIN,

Defendant-Appellant.

UNPUBLISHED

September 17, 1999

No. 206353

Recorder's Court

LC No. 96-008113

Before: Markman, P.J., and Saad and P.D. Houk,* JJ.

MEMORANDUM.

Defendant appeals by right his bench trial convictions of 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), for which he was sentenced to four to ten years' imprisonment and two years' consecutive imprisonment, respectively. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant contends that the trial court's statement of findings and conclusions is insufficient to indicate the reasons for its verdict. In particular, defendant argues that trial court did not adequately indicate the facts it used in determining the issue of intent, gave no reason for rejecting defendant's self-defense theory after identifying it as an appropriate approach to the case, and inadequately supported its finding of intent to do great bodily harm by referring to the close proximity between defendant and the victim. We disagree.

A trial court's statement of findings and conclusions is sufficient if, when the court's remarks are viewed in the context of the specific legal and factual issues raised by the parties and the evidence, it is manifest that the court was aware of the issues in the case and correctly applied the law. See e.g., *People v Johnson (On Rehearing)*, 208 Mich App 137, 141-142; 526 NW2d 617 (1994); *People v Armstrong*, 175 Mich App 181, 185; 437 NW2d 343 (1989); *People v Porter*, 169 Mich App 190, 193; 425 NW2d 514 (1988).

* Circuit judge, sitting on the Court of Appeals by assignment.

Here, the parties' arguments focused on the issue of defendant's intent and his self-defense/provocation theory. Reasoning that defendant was acting on a desire to exact revenge

after “brewing and simmering” over the altercation that had ended earlier, the trial court specifically stated that it found the evidence insufficient to support an imperfect self-defense claim. However, the trial court also indicated that it was following defendant’s proposed “approach” to some extent by considering the provocation of the prior conflict to determine defendant’s intent in shooting the victim. While the usual result and purpose of discharging a firearm at someone within range is death, *People v Johnson*, 54 Mich App 303, 304; 220 NW2d 705 (1974), the trial court was unpersuaded that defendant actually intended to kill the victim under the circumstances. By referring to the fact that defendant shot the victim at close range, in addition to noting the area of the body targeted, the trial court articulated an adequate factual basis to infer that defendant intended great bodily harm. See, e.g., *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). The trial court’s findings and conclusions are sufficient.¹

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk

¹ We are also disturbed that defendant’s argument is premised upon an incomplete and misleading quotation of the trial court’s statement of findings. At pages 4-5 of his appeal brief, defendant quotes only the second and third paragraphs of the trial court’s bench opinion, followed by only the first sentence of the sixth and final paragraph, without any indication that significant intervening text has been omitted. Although we do not impose sanctions here, arguably, this constitutes the kind of “gross disregard of the requirements of a fair presentation of the issues” which this Court may sanction under MCR 7.216(C)(1)(b).