

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALFRED WESLOCK,

Defendant-Appellant.

UNPUBLISHED

December 28, 1999

No. 214990

Muskegon Circuit Court

LC No. 98-041952 FH

Before: Saad, P.J., and McDonald and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of felonious assault, MCL 750.82; MSA 28.277, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At trial complainant, defendant's wife, testified that defendant pointed a gun at her after she told him to leave the marital home. Complainant stated that the gun made her fear for her life. A police officer testified that defendant told him that he intended to frighten complainant with the gun. Defendant testified that he carried the gun for his own protection because he feared that complainant might bring other persons home to assault him, and because complainant was extremely upset.

The trial court found defendant guilty of felonious assault and felony-firearm. The court found complainant's testimony to be more credible than that given by defendant.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999).

The trial court found defendant guilty of felonious assault and felony-firearm. 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 Avant*, 235 Mich App 499, 504; ___ NW2d ___ (1999). The elements of felony-firearm are: (1) the defendant possessed a firearm; (2) during the commission of, or the attempt to commit, a felony. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996).

Defendant argues that the evidence produced at trial was insufficient to support his convictions. We disagree and affirm. The undisputed evidence showed that defendant carried a firearm during the incident. The trial court was entitled to find that complainant's testimony to the effect that defendant pointed the gun at her was more credible than defendant's testimony in which he denied doing so. *Marji, supra*. Complainant's testimony that she feared for her life when defendant pointed the gun at her and caused it to make a clicking sound supported the trial court's finding that defendant committed an assault. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). Viewed in a light most favorable to the prosecution, the evidence was sufficient to support both the conviction of felonious assault and the conviction of felony-firearm. *Avant, supra; Davis, supra*; MCR 2.613(C).

Affirmed.

/s/ Henry William Saad
/s/ Gary R. McDonald
/s/ Hilda R. Gage