

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL J. HALLAUER,

Defendant-Appellant.

UNPUBLISHED

January 28, 2000

No. 209528

Detroit Recorder's Court

LC No. 97-003424

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

PER CURIAM.

Defendant Michael J. Hallauer appeals as of right from his waiver trial conviction of four counts of assault with intent to murder, MCL 750.83; MSA 28.278, and one count of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to concurrent terms of six to ten years' imprisonment for his four assault with intent to murder convictions, and to two years' imprisonment for the felony-firearm conviction. This case arises out of an armed conflict between four passengers in an automobile and some pedestrians who were crossing the street. Defendant argues that the trial court erred in denying defendant's motion for directed verdict and finding defendant guilty of assault with intent to murder. We disagree and affirm.

We review de novo a trial court's denial of a directed verdict. *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). In reviewing the sufficiency of the evidence, we view the evidence in the light most favorable to the prosecutor to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999).

To establish the elements of assault with the intent to murder, the prosecution must show (1) an assault, (2) with the intent to kill, (3) under circumstances that, if successful, would constitute murder. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997). Defendant contends that the evidence adduced at trial was insufficient to prove the second element.

The factfinder may draw reasonable inferences from the circumstances to determine whether a defendant had an actual intention to kill. *People v Drayton*, 168 Mich App 174, 176-177; 423

NW2d 606 (1988); *People v Guy Taylor*, 422 Mich 554, 568; 375 NW2d 1 (1985). In *People v Johnson*, 54 Mich App 303; 220 NW2d 705 (1974), this Court found that the “intentional discharge of a firearm at someone within range is an assault. The usual result and purpose of such an assault is death.” *Id.* at 304. Where the evidence produced at trial demonstrates that the defendant fired a shotgun at police officers who were chasing him, a jury may reasonably infer a defendant’s intent to kill or do great bodily harm. *Id.* at 304-305. There “would rarely be a conviction if a criminal’s intent had to be confessed or proven directly by a witness. Intent, like any other fact, may be proven indirectly by inference from the conduct of the accused and surrounding circumstances from which it logically and reasonably follows.” *Id.* at 304.

In the present case, defendant’s conviction was sufficiently supported by the testimony presented at trial. Complainant Lopez testified that defendant shot his handgun at the car approximately four times. Complainants Olsen and Woodward each testified that they saw defendant point his gun at the car and fire three to four times. These witnesses further testified that a second set of shots blew out the car’s rear window. This evidence supports the trial court’s finding that defendant “used a dangerous weapon, he fired it multiple times, [and] fired it in close proximity to people who were in the vehicle.”

As noted in *Johnson, supra* at 304, intent may be proven indirectly by inference from the conduct of the accused and surrounding circumstances. The import of *Johnson, supra* at 304, and *Drayton, supra* at 178, is that an intent to kill may be logically inferred from a defendant’s act of firing a handgun at another person at close proximity. In our view, based on the cited cases, the testimony cited by the trial court was sufficient evidence to justify a rational trier of fact in finding beyond a reasonable doubt that defendant intended to kill the occupants of the car.

Affirmed.

/s/ Brian K. Zahra
/s/ Henry William Saad
/s/ Hilda R. Gage