STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARQUITA ANDERSON,

Defendant-Appellant.

UNPUBLISHED
May 19, 2000

No. 210704
Wayne Circuit Court
Criminal Division
LC No. 97-004573

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

PER CURIAM.

Following a bench trial, defendant was acquitted on charges of assault with intent to commit murder, MCL 750.83; MSA 28.278, and carjacking, MCL 750.529a; MSA 28.797(a), but convicted of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, unlawfully driving away an automobile ("UDDA"), MCL 750.413; MSA 28.645, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). She was sentenced to concurrent prison terms of three to ten years for the assault conviction and two to five years for the UDDA conviction, and a consecutive two-year term for the felony-firearm conviction. She appeals as of right. We affirm.

Defendant argues that the evidence was insufficient to support her convictions. We disagree. In considering this issue, we must review the evidence in the light most favorable to the prosecution and determine whether a rationale trier of fact could find that the essential elements of the crimes were proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270; 380 NW2d 11 (1985); *People v Reddick*, 187 Mich App 547, 551; 468 NW2d 278 (1991).

Evidence was presented that defendant Anderson was armed with a gun, that she threatened the complainant, that the complainant was shot, and that the complainant heard Anderson shout, "Kill the m---------- and take his truck." This evidence, viewed most favorably to the prosecution, was sufficient to enable a rationale trier of fact to find beyond a reasonable doubt that defendant assaulted the complainant with the intent to kill or inflict great bodily harm, and that she possessed a firearm during the commission of this felony assault. Further, the elements of UDAA may rationally be inferred from evidence that defendant ordered a codefendant to shoot the complainant and take his truck, that the

truck had been left running by the complainant as he ran away, that no one else was around, and that the truck was gone when the police arrived shortly thereafter. See *People v Hendricks*, 200 Mich App 68, 71; 503 NW2d 689 (1993), aff'd 446 Mich 435; 521 NW2d 546 (1994). The credibility of the witnesses was a matter for the trier of fact to resolve and this Court will not resolve it anew. *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990).

Defendant next argues that her sentence is disproportionate. We disagree. A trial court's sentencing decision is reviewed for abuse of discretion. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

Defendant Anderson's three-year minimum sentence for the more serious offense of assault with intent to do great bodily harm is within the sentencing guidelines recommended minimum sentence range and, therefore, is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987). Although defendant had no prior criminal record, had three children and was pregnant with a fourth, and committed the offenses in the context of a bad relationship, we cannot agree that these factors constitute unusual circumstances sufficient to overcome the presumption of proportionality. See *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). The trial court did not abuse its sentencing discretion.

Affirmed.

/s/ Gary R. McDonald
/s/ Hilda R. Gage
/s/ Michael J. Talbot