

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CARLOS BYARS,

Defendant-Appellant.

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UNPUBLISHED  
October 27, 2000

No. 215402  
Wayne Circuit Court  
98-003297

Before: Markey, P.J., and Murphy and Collins, JJ.

PER CURIAM.

Defendant was convicted after a bench trial of one count of malicious destruction of police property, MCL 750.377b; MSA 28.609(2), and one count of domestic assault, MCL 750.81(2); MSA 28.276(2). He was sentenced to a term of two years' probation, with the first six months of the term to be served in jail. He appeals as of right. We affirm.

Defendant raises two issues, both concerning the sufficiency of the evidence introduced at trial. In reviewing the sufficiency of the evidence, we must view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the crime proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

Defendant first argues that there was insufficient evidence introduced at trial to support a finding that he assaulted his former live-in girlfriend. We disagree. To support a guilty verdict for domestic assault under MCL 750.81(2); MSA 28.276(2), the prosecutor must establish that the defendant assaulted an individual who was either a spouse or former spouse, a resident or former resident of the same household, or an individual with whom he has had a child in common. The only question we must decide is whether sufficient evidence of an assault was introduced at trial.

Defendant's written statement was introduced at trial. In his statement he denied ever having assaulted his former girlfriend. Countering this evidence, however, was the testimony of the two arresting officers, who stated that when they arrived at the victim's address and entered the home, they witnessed defendant holding her against the wall and hitting her. The victim herself testified that defendant punched her that evening, and the police testified that they observed the victim with a black

eye. The trier of fact is charged with the responsibility of resolving questions of credibility. *People v Avant*, 235 Mich App 499, 506; 597 NW2d 864 (1999). Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could find beyond a reasonable doubt that defendant assaulted his former girlfriend.

Defendant next contends that the trial court erred in finding defendant guilty of malicious destruction of police property because the prosecution failed to establish that defendant had the requisite intent to commit the crime in light of the evidence of his intoxication. We again disagree.

The elements of malicious destruction of police property are that the defendant (1) willfully and maliciously destroy or injure, (2) personal property belonging to the police department. *People v Richardson*, 118 Mich App 492, 494; 325 NW2d 419 (1982). To convict, a defendant must possess the specific intent to injure or destroy police property. *People v Culp*, 108 Mich App 452, 458; 310 NW2d 421 (1981). If a defendant voluntarily becomes so intoxicated that he lacks the necessary intent, he cannot be convicted. *Id.* Although the testimony did show that defendant was visibly intoxicated, sufficient evidence demonstrated that despite his intoxication, defendant specifically intended to destroy or injure police property. Defendant's own written statement that he kicked out the window of a police car in response to being maced supports the court's finding that his act was one of intentional retaliation. Viewing the evidence in the light most favorable to the prosecution, a rational trier of fact could conclude beyond a reasonable doubt that defendant intended to damage the window of the squad car.

Affirmed.

/s/ Jane E. Markey  
/s/ William B. Murphy  
/s/ Jeffrey G. Collins