

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FELIX DAVIS,

Defendant-Appellant.

UNPUBLISHED
October 31, 2000

No. 216361
Wayne Circuit Court
Criminal Division
LC No. 97-010207

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of assault with intent to commit murder, MCL 750.83; MSA 28.278, 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.

Randolph Ingram, Jr., was shot several times while sitting in his vehicle at a service station. The testimony of several witnesses differed in various respects, including whether Ingram was shot by one or two persons. Ingram testified that two persons, one of whom was defendant, shot him several times at close range. Another witness identified defendant as the shooter. The trial court found defendant guilty as charged.

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), aff'd by equal division 462 Mich 71; ___ NW2d ___ (2000).

The elements of assault with intent to commit murder are: (1) an assault; (2) with an actual intent to kill; (3) which, if successful, would make the killing murder. The intent to kill may be proven by inference from the facts in evidence. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). The elements of felony-firearm are: (1) the defendant possessed a firearm; (2) during the commission of, or the attempt to commit, a felony. *Id.*

Defendant argues that the evidence was insufficient to support his convictions. We disagree and affirm. The evidence established that Ingram was shot in the arm, buttocks, thigh, and leg. The testimony of the witnesses differed in some respects; however, Ingram identified defendant as one of the two persons who shot him. The fact that defendant and his companion were strangers to Ingram notwithstanding, the trial court, as the trier of fact, was entitled to believe Ingram's testimony regarding the identity of his assailants. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Furthermore, the evidence that defendant shot Ingram several times at close range supported an inference that defendant intended to kill Ingram. No authority requires that shots be fired into a victim's head or chest before an intent to kill can be inferred. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's convictions. *Petrella, supra*.

Affirmed.

/s/ Richard Allen Griffin
/s/ Mark J. Cavanagh
/s/ Hilda R. Gage