

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARREN CLAY,

Defendant-Appellant.

UNPUBLISHED

May 25, 2001

No. 221289

Wayne Circuit Court

LC No. 98-014157

Before: Jansen, P.J., and Zahra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of felonious assault, MCL 750.82; MSA 28.277, entered after a bench trial. We affirm.

Complainant testified that she was visiting at the home of a friend when defendant, whom she knew, entered the room and engaged her in a verbal argument. The argument escalated, and defendant splashed a cleaning solution on her, hit her with his fists, and threw her onto a bed. Complainant acknowledged that as defendant reached back to grab an object from a dresser, she hit him in the head with a bottle. Defendant grabbed the object, and she felt herself sustain cuts on her face, arm, and leg. A police officer found broken glass, a spilled liquid on the floor, and a box cutter on the dresser. Defendant testified that complainant instigated the altercation, and that she hit him with a bottle. He denied striking complainant or cutting her with any object.

The trial court acquitted defendant of the principal charge of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, but found him guilty of the lesser offense of felonious assault. The court found complainant's testimony credible, and rejected defendant's contention that he acted in self-defense.

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 Lester*, 232 Mich App 262, 271; 591 NW2d 267 (1998).

The elements of felonious assault are: (1) an assault; (2) with a dangerous weapon; and (3) with the intent to place the victim in reasonable apprehension of an immediate battery. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). An assault is an attempt to commit a battery or an unlawful act which places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995).

To be lawful self-defense, the evidence must show: (1) that the defendant honestly believed that he was in danger; (2) that the danger feared was death or serious bodily harm; (3) that the action taken appeared at the time to be immediately necessary; and (4) that the defendant was not the initial aggressor. *People v Deason*, 148 Mich App 27, 31; 384 NW2d 72 (1985). Once a defendant introduces evidence of self-defense, the prosecution bears the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense. CJI2d 7.20; *People v Fortson*, 202 Mich App 13, 20; 507 NW2d 763 (1993).

Defendant argues that the evidence was insufficient to sustain his conviction in that it did not establish beyond a reasonable doubt either that he assaulted complainant or that he had the requisite intent to assault her. We disagree and affirm defendant's conviction. The trial court was entitled to accept complainant's testimony that defendant struck her with his fists and that she sustained cuts just after defendant grabbed an object from the dresser. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). The trial court found that defendant inflicted the cuts to complainant's body, and inferred that he used the box cutter on the dresser to do so. The evidence showed that the box cutter was within defendant's reach, and that he reached for an object on the dresser just before complainant was cut. The trial court's inference was supported by direct evidence in the record. *Vaughn, supra*. The record contained sufficient evidence to support a finding that defendant assaulted complainant. *Grant, supra*. Furthermore, the facts and circumstances surrounding the incident supported an inference that defendant specifically intended to injure complainant. *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). The evidence supported a finding that defendant used the box cutter as a dangerous weapon, CJI2d 17.10, and that he did not act in self-defense. CJI2d 7.20; *Deason, supra*. Viewed in a light most favorable to the prosecution, the evidence was sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ Kathleen Jansen
/s/ Brian K. Zahra
/s/ Donald S. Owens