

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT W. BASKIN,

Defendant-Appellant.

UNPUBLISHED

May 25, 2001

No. 221712

Wayne Circuit Court

LC No. 98-009326

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

MEMORANDUM.

Defendant appeals as of right from a conviction of felonious assault, MCL 750.82; MSA 28.277, for which he was sentenced to two years' probation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.215(E).

In reviewing a nonjury criminal case, this Court "is required to review the entire record to determine whether the trial judge clearly erred." *People v Rush*, 48 Mich App 478, 482; 210 NW2d 467 (1973). This Court must review the record to determine whether there was sufficient evidence to warrant a verdict of guilty beyond a reasonable doubt. *People v Garcia*, 398 Mich 250, 263; 247 NW2d 547 (1976). The trial court's factual findings are reviewed for clear error. MCR 2.613(c). A finding of fact is considered "clearly erroneous if, after a review of the entire record, the appellate court is left with a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

"Felonious assault is defined as a simple assault aggravated by the use of a weapon." *People v Jones*, 443 Mich 88, 100; 504 NW2d 158 (1993). "The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery." *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999). A baseball bat, when used to inflict injury, can constitute a dangerous weapon. Cf. *People v McCadney*, 111 Mich App 545, 549-550; 315 NW2d 175 (1981) (a stick may be a dangerous weapon); *People v Bates*, 55 Mich App 1; 222 NW2d 6 (1974) (a pool cue); *People v Knapp*, 34 Mich App 325, 333-334; 191 NW2d 155 (1971) (a broomstick).

Although the trial court was unable to accept completely the testimony of any of the witnesses, resulting in defendant's acquittal on five of the six charges against him, it did find that defendant struck the victim in the head with a baseball bat. That finding was amply supported by the evidence, which did not clearly weigh in defendant's favor. *People v Gadomski*, 232 Mich App 24, 28; 592 NW2d 75 (1998); *People v DeLisle*, 202 Mich App 658, 661; 509 NW2d 885 (1993). Although the trial court did not specifically state which facts led it to conclude that defendant had committed the crime charged, it is clear that the court was aware of the factual issue to be decided and resolved it by correct application of the law. Thus the court's findings were sufficient. *People v Jackson*, 390 Mich 621, 627 n 3; 212 NW2d 918 (1973); *People v Wardlaw*, 190 Mich App 318, 321; 475 NW2d 387 (1991).

Affirmed.

/s/ Kathleen Jansen

/s/ Brian K. Zahra

/s/ Donald S. Owens