

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

In re MIGUEL SOLIS, Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

MIGUEL SOLIS,

Respondent-Appellant.

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UNPUBLISHED

May 25, 2001

No. 224339

Van Buren Circuit Court

Juvenile Division

LC No. 99-012065-01

Before: Collins, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

Respondent appeals as of right from a jury conviction of assault and battery, MCL 750.81; MSA 28.276. The order of disposition made respondent a temporary ward of the court to remain in the care and custody of his mother. Further, the order of disposition required respondent to write a letter of apology to the victim, complete twenty hours of community service, follow guidelines of behavior, and pay a \$25 service fee as well as a \$20 victim's rights fee. We affirm.

Respondent first argues that there was insufficient evidence to support his assault and battery conviction. Specifically, respondent argues that the victim could not have seen who was engaged in the assault because the victim's glasses were broken during the initial contact and another attacker was hitting the victim in his face, thereby impairing his ability to see the entire event. Respondent further argues that other evidence did not substantiate the victim's allegations. We disagree.

When determining whether sufficient evidence has been presented to sustain a conviction, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999); *People v Godbold*, 230 Mich App 508, 522; 585 NW2d 13 (1998).

"A simple assault is either an attempt to commit a battery or an unlawful act that places another in reasonable apprehension of receiving an immediate battery. A battery is the consummation of an assault. *People v Terry*, 217 Mich App 660, 662; 553 NW2d 23 (1996)

(citations omitted). Stated another way, “[a] battery, or assault and battery, is the wilful touching of the person of another by the aggressor or by some substance put in motion by him . . . .” *Tinkler v Richter*, 295 Mich 396, 401; 295 NW 201 (1940), quoting CJS, p 796, § 1; *People v Lakeman*, 135 Mich App 226, 239; 353 NW2d 493 (1984).

Here, not only did the victim identify respondent as one of his attackers, but other witnesses testified that respondent hit or kicked the victim. Viewing this evidence in a light most favorable to the prosecutor, we find that there was sufficient evidence from which a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt.

Respondent also argues that the trial court failed to give proper jury instructions on the elements of the crime and therefore this case should be remanded for a new trial. Because respondent not only failed to object to the instructions given at trial, but also affirmed that the instructions were complete before they were read and subsequently affirmed that they were read correctly, respondent has waived his right to appellate review. *People v Carter*, 462 Mich 206, 216; 612 NW2d 144 (2000).

Affirmed.

/s/ Jeffrey G. Collins

/s/ Joel P. Hoekstra

/s/ Hilda R. Gage