

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT LANGFORD,

Defendant-Appellant.

UNPUBLISHED

August 6, 2002

No. 232895

Wayne Circuit Court

LC No. 00-010631

Before: Talbot, P.J., and Cooper and D. P. Ryan*, JJ.

PER CURIAM.

Defendant appeals as of right his convictions of felonious assault, MCL 750.82, and domestic assault, MCL 750.81(4), entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant, defendant's girlfriend, testified that defendant, with whom she has a daughter, came to her home uninvited and began striking her with his fists. The altercation ended when their daughter entered the house. At that point, defendant pulled out a long knife from somewhere on his body. Complainant stated she was frightened when she saw the knife, and after a struggle succeeded in forcing defendant out of the house. The trial court found defendant guilty of felonious assault and domestic assault.

Defendant argues that his convictions of both felonious assault and domestic assault violate the constitutional prohibitions against multiple punishments for the same offense. We disagree. The determination whether multiple convictions violate the constitutional protections against multiple punishments for the same offense is a question of law reviewed de novo on appeal. *People v Clark*, 243 Mich App 424, 429; 622 NW2d 344 (2000).

The double jeopardy clauses of the federal and state constitutions prohibit a state from imposing multiple punishments for the same offense. US Const, Am V; Const 1963, art 1, § 15. The restriction is on a court's ability to impose punishment in excess of that intended by the legislature, and does not limit the legislature's power to define crime and fix punishment. *People v Fox (After Remand)*, 232 Mich App 541, 556; 591 NW2d 384 (1998). Whether multiple punishments offend double jeopardy protections depends on legislative intent. *Id.* "In determining legislative intent, a court must identify the type of harm the Legislature was

* Circuit judge, sitting on the Court of Appeals by assignment.

intending to prevent.” *Id.* Statutes that prohibit conduct violating distinct social norms are generally separate and subject to multiple punishments. *Id.* Multiple offenses may be charged and punished if one crime is complete before the other is committed, even if both charges arise out of the same general transaction. *People v Lugo*, 214 Mich App 699, 708; 542 NW2d 921 (1995).

“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). The elements of domestic assault are: (1) an assault or an assault and battery; (2) upon a person who at the time was the defendant’s spouse, former spouse, a person with whom the defendant had a child in common, or a resident or former resident of the same household as the defendant. MCL 750.81(2)-(4); CJI2d 17.2a.

The language of the statutes prohibiting felonious assault and domestic assault indicates that the offenses prohibit conduct violating distinct social norms. The offense of felonious assault is intended to address those situations in which a dangerous weapon is used in a threatening manner. The statute provides for a single penalty. The offense of domestic assault is intended to address those situations in which a person commits an assault or an assault and battery upon another person with whom he or she has a specifically defined relationship. The use of a dangerous weapon is not a necessary element of this offense. The statute provides for graduated punishment based on the existence of prior assaultive convictions. Here, the evidence established that the domestic assault offense was completed before the felonious assault occurred. Defendant’s conviction of both offenses did not result in the imposition of multiple punishments for the same offense. *Fox, supra; Lugo, supra.*

Affirmed.

/s/ Michael J. Talbot
/s/ Jessica R. Cooper
/s/ Daniel P. Ryan