

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

KENNETH CARD,

Defendant-Appellant.

UNPUBLISHED

October 22, 2002

No. 233764

Wayne Circuit Court

LC No. 00-006421-01

Before: Talbot, P.J., and Whitbeck, C.J., and Gage, J.

MEMORANDUM.

Defendant appeals as of right his conviction, following a bench trial, of one count of assault with intent to do great bodily harm less than murder (AWIGBH), MCL 750.84, for which he was sentenced to twenty-three months to ten years' imprisonment.¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole issue on appeal is that the evidence presented was insufficient to prove that he intended to cause, and did cause, great bodily harm less than murder to the victim. In reviewing the sufficiency of the evidence in a bench trial, this Court views the evidence de novo in the light most favorable to the prosecutor to determine whether the trial court could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). Special deference is given to the trial court's determinations of credibility. *Id.* at 267. It is for the trier of fact, not this Court, to determine what inferences can be fairly drawn from the evidence and determine the weight accorded to those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

Assault with intent to do great bodily harm less than murder requires proof of (1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). AWIGBH is a specific intent crime, *id.*, and the defendant's intent can be inferred from all the facts and circumstances surrounding the crime, *People v Lugo*, 214 Mich

¹ Defendant was acquitted of a felony-firearm charge.

App 699, 709-710; 542 NW2d 921 (1995). Actual injury is not a necessary element of the crime. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992).

Defendant essentially argues that the victim's injuries were not the result of his acts; therefore, he could not be convicted of AWIGBH. The victim testified that he had a verbal altercation with defendant at a basketball court and defendant chased him with his car. He further testified that some time later, defendant and several other individuals approached him at his house and the other individuals got out of the car and started to attack the victim by kicking and punching him. Defendant likewise got out of the car and attacked the victim. The victim could remember defendant punching him in the face and several other witnesses acknowledged defendant attacking the victim and punching him.² The evidence was sufficient to find defendant guilty of assault with intent to do great bodily harm less than murder.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Hilda R. Gage

² The victim and several other witnesses also testified that defendant retrieved a gun from the car and threw it to one of the other individuals, who then hit the victim in the head with it and shot the victim; however, the trial court acquitted defendant of the felony-firearm charge.