

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE CLINTON WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

November 19, 2002

No. 235653

Oakland Circuit Court

LC No. 2000-170719-FH

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction for felonious assault, MCL 750.82. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was detained by loss prevention officers at Hudson's in Oakland Mall after he was observed concealing merchandise. One of the officers testified that during the struggle, defendant slashed at her with a knife. He then dropped the knife, freed himself from the officers and fled. A knife was found on the ground after the incident. Defendant denied possessing a knife or slashing at the security officer.

On appeal, defendant argues that there was insufficient evidence to support the conviction and the verdict was against the great weight of the evidence. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

Viewed in a light most favorable to the prosecution, the testimony was sufficient to support the verdict. The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with intent to injure or place the victim in reasonable fear of an immediate battery. *People v Lawton*, 196 Mich App 341; 492 NW2d 810 (1992). The court could find that defendant committed an assault by brandishing the knife at the officer. The knife was a dangerous weapon, and defendant intended to place the officer in fear of immediate battery to allow defendant to escape.

While defendant failed to present his great weight of the evidence challenge in the trial court, this issue is preserved where the case was tried without a jury. MCR 7.211(C)(1)(c). However, there is no showing that the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand. *People v Lemmon*, 456 Mich 625, 627; 576 NW2d 129 (1998).

Affirmed.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter