

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK A. HILL,

Defendant-Appellant.

UNPUBLISHED

December 10, 2002

No. 236011

Wayne Circuit Court

LC No. 00-008423

Before: Griffin, P.J., and White and Murray, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial conviction of assault with intent to commit great bodily harm less than murder, MCL 750.84. Defendant was sentenced to two years' probation. We affirm.

Defendant's only issue on appeal is that there was insufficient evidence to support his conviction because there was no evidence presented that defendant specifically intended to inflict great bodily harm on the victim. In determining whether sufficient evidence has been presented to sustain a conviction, this Court must view the evidence in the 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 proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999) (citations omitted).

The crime of assault with intent to commit 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). It is a specific intent crime. *Id.* Further, the intent to harm can be inferred from the defendant's conduct. *Id.* "No actual physical injury is required for the elements of the crime to be established." *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992).

We conclude that there was sufficient evidence to support defendant's conviction of assault with intent to commit great bodily harm less than murder. While the victim and defendant offered sharply contrasting versions of the facts, it is undisputed that defendant assaulted the victim. Defendant claimed that he assaulted the victim while defending himself because he was afraid that the victim was about to harm him with a weapon. However, the trial court specifically found the testimony of Officer Derral Kelly credible, and Kelly's testimony

was consistent with the victim's account of the incident. Kelly testified that he observed defendant kicking and stomping the victim's chest, stomach, and face area as many as twenty times, with his Rockport boots. Kelly also testified that the victim was lying limply on the ground, moving further underneath a parked car, and making no effort to fight back. This observation is also inconsistent with defendant's claim of self-defense. Kelly further testified that even after the officers announced themselves numerous times, defendant appeared to be in some sort of blind rage, and did not stop his assault on the victim on his own. Instead, the officers had to physically pull defendant off the victim, indicating that defendant had every intention of continuing the assault on the victim absent police intervention. Thus, an intent to do great bodily harm can be inferred from this conduct. *Parcha, supra*.

In addition, Kelly testified that he observed redness and swelling on the victim's face, which prompted him to call a medic unit to the scene to provide the victim with medical assistance. Moreover, the victim suffered bruising on her arms, hips, and legs, and had to wear a neck brace for two weeks because of a possible dislocated neck. Viewing this evidence in the light most favorable to the prosecution, we find that a rational trier of fact could have found that defendant intended to do corporal harm to the victim by aggressively kicking and stomping on her numerous times as she lie helplessly on the ground. We hold, therefore, that a rational trier of fact could have found that the prosecution proved the essential elements of assault with intent to commit great bodily harm less than murder beyond a reasonable doubt.

Affirmed.

/s/ Richard Allen Griffin
/s/ Helene N. White
/s/ Christopher M. Murray