

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONALD DELAROSA,

Defendant-Appellant.

UNPUBLISHED

June 3, 2004

No. 246018

Wayne Circuit Court

LC No. 02-002130

Before: Markey, P.J., and Wilder and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial convictions for assault with intent to commit great bodily harm, MCL 750.84, two counts of felonious assault, MCL 750.82, first-degree home invasion, MCL 750.110a(2), carrying a concealed weapon, MCL 750.227, two counts of felon in possession of a firearm, MCL 750.224f, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b. We affirm.

On appeal, defendant argues that the court issued inconsistent verdicts on the assault charges. Defendant was charged with three counts of assault with intent to murder. He asserts that the verdicts were inconsistent because the same facts applied to all three victims.

“[T]rial courts in bench trials are both required to render logical verdicts and precluded from exercising a jury’s capacity for lenity.” *People v Hutchinson*, 224 Mich App 603; 569 NW2d 858 (1997). Judges sitting as finders of fact may not reach inconsistent verdicts. See *People v Vaughn*, 409 Mich 463, 466; 295 NW2d 354 (1980). The factual findings underlying the verdicts must be inconsistent to mandate reversal. See *People v Smith*, 231 Mich App 50; 585 NW2d 755 (1998).

There was no factual inconsistency among the verdicts. One victim was actually hit by the bullets that defendant fired, while the other two people were not. The trial court could reasonably find that defendant had the intent to cause great bodily harm to the victim he hit, but that he did not display the same intent when he did not fire directly at the other two.

We decline to address the issue defendant attempts to raise in an untimely supplemental brief.

Affirmed.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter