

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY ALPHONSO GRAHAM,

Defendant-Appellant.

UNPUBLISHED

June 29, 2004

No. 246726

Oakland Circuit Court

LC No. 02-182998-FH

Before: Sawyer, P.J., and Gage and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of assault with intent to rob while being unarmed, MCL 750.88, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

When reviewing a trial court's decision on a motion for directed verdict, we examine the record de novo to determine whether the evidence presented by the prosecution, viewed in a light most favorable to the prosecution, could convince a rational trier of fact that the essential elements of the charged offense were proved beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Circumstantial evidence and reasonable inferences drawn therefrom may be sufficient to prove the elements of the crime. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from direct or circumstantial evidence in the record. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

The elements of assault with intent to rob while being unarmed are: (1) an assault with force and violence; (2) an intent to rob and steal; and (3) the defendant being unarmed. MCL 750.88; *People v Chandler*, 201 Mich App 611, 614; 506 NW2d 882 (1993). An assault is an attempt to commit a battery or an unlawful act that places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). Robbery requires the intent to permanently deprive the owner of his property. *People v King*, 210 Mich App 425, 428; 534 NW2d 534 (1995).

Defendant argues that the trial court erred by denying his motion for a directed verdict on the charge of assault with intent to rob being unarmed, and asserts that insufficient evidence was produced to support that conviction.¹ We disagree and affirm. The fact that defendant may have prefaced the incident by falsely representing that he was a police officer is irrelevant. Complainant's testimony, which the trial court was entitled to accept, *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989), established that defendant assaulted her using force and violence, *Chandler, supra*; *Grant, supra*, and supported an inference that he intended to rob her of the money and to deprive her of it permanently. *Jolly, supra*. The trial court did not err by denying defendant's motion for a directed verdict, *Wolfe, supra*, and the evidence supported defendant's conviction of assault with intent to rob while being unarmed. *Petrella, supra*.

Affirmed.

/s/ David H. Sawyer
/s/ Hilda R. Gage
/s/ Donald S. Owens

¹ Defendant does not challenge his conviction of false personation of a police officer, MCL 750.215.