

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

OLIVIA KWALEERI GILL,

Defendant-Appellant.

UNPUBLISHED

December 16, 2008

No. 284099

Ingham Circuit Court

LC No. 07-000184-FH

Before: Beckering, P.J., and Borrello and Davis, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of assault with intent to do great bodily harm less than murder, MCL 750.84, but found not guilty of felonious assault, MCL 750.82. Defendant was sentenced to 24 months probation. Defendant appeals as of right and we affirm.

Defendant's sole argument on appeal is that the evidence presented at trial was insufficient to convict her. Specifically, defendant argues that the prosecution failed to establish she had the requisite intent to cause the victim great bodily harm less than murder. Defendant also argues the prosecution failed to negate her claim she acted in self-defense when she injured the victim. In a criminal case, a challenge to the sufficiency of the evidence is reviewed de novo in the light most favorable to the prosecution to determine whether a rational trier of fact could find beyond a reasonable doubt that all essential elements of the prosecution's case were proven. *People v Aldrich*, 246 Mich App 101, 122; 631 NW2d 67 (2001). A reviewing court must draw all reasonable inferences and resolve credibility issues in favor of the jury verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The victim testified that in the early morning of February 1, 2007, defendant came to the apartment he shared with his girlfriend and her young son. Defendant went to the apartment to give the victim's girlfriend a ride to work. According to the victim, defendant was angry with him. The victim and his girlfriend testified that after defendant ignored the victim's repeated requests to leave, matters escalated. The victim admitted at trial that he grabbed defendant by the hair and anything else he could grab to throw defendant out of his apartment, which he successfully did. The victim and his girlfriend then testified that defendant ran back into their apartment and immediately went to the couple's bedroom, where she picked up a hot clothing iron. The victim testified that immediately after he snatched his clothing off the ironing board, defendant said, "Hell, I guess I'll burn you." According to the victim, defendant burned his shirtless body several times and continued her attempts even after he tried to protect himself.

Defendant neither disputes that she hit the victim with the iron nor that she intended to harm the victim when she did so. However, defendant argues that because she did not intend to cause the victim an aggravated injury and the victim did not suffer an aggravated injury, the plaintiff could not prove she had the specific intent required to support a conviction for assault with intent to cause great bodily harm less than murder. We disagree.

Assault with the intent to cause great bodily harm less than murder is a specific intent crime. *People v Mack*, 112 Mich App 605, 611; 317 NW2d 190 (1981). Specifically, a defendant must have “intend[ed] to do serious injury of an aggravated nature.” *People v Mitchell*, 149 Mich App 36, 39; 385 NW2d 717 (1986), citing *People v Ochotski*, 115 Mich 601, 608; 73 NW 889 (1898). However, “intent is a secret of a man’s mind into which no one can look, and he discloses it by words or by action.” *People v Gill*, 8 Mich App 89, 93; 153 NW2d 678 (1967). Accordingly, minimal circumstantial evidence will suffice to establish a defendant’s state of mind, which can be inferred from all the evidence presented. *People v McGhee*, 268 Mich App 600, 623; 709 NW2d 595 (2000). Perhaps the most compelling evidence of defendant’s intent was that she took a hot iron and placed it directly on the victim’s back leaving a perfect imprint of the iron. The emergency room physician that treated the victim testified that an iron could cause third-degree burns. That defendant did not succeed in causing the victim an actual aggravated injury does not negate a finding of intent because actual injury is not required. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992). A defendant cannot escape a guilty verdict simply because the victim was fortunate not to suffer the harm intended.

Defendant also argues insufficient evidence was presented to negate her claim she acted in self-defense. Once a defendant introduces evidence of self-defense, plaintiff must disprove it beyond a reasonable doubt. *People v Jackson*, 390 Mich 621, 625-626; 212 NW2d 918 (1973). Defendant argues that because the victim’s account of what occurred differs from her account, plaintiff failed to disprove her self-defense claim. However, this argument goes more to the weight and credibility of witnesses rather than to the sufficiency of the evidence. It is a well-settled principal that questions regarding the credibility of witnesses are left to the trier of fact. See e.g., *People v Palmer*, 392 Mich 370, 375; 220 NW2d 393 (1974). The jury was free to believe the victim’s testimony and ignore defendant’s.

In sum, the evidence, when viewed in the light most favorable to the plaintiff, was sufficient that a rational juror could find beyond a reasonable doubt that defendant was guilty of assault with intent to commit great bodily harm less than murder.

Affirmed.

/s/ Jane M. Beckering
/s/ Stephen L. Borrello
/s/ Alton T. Davis