

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE LEVON JONES,

Defendant-Appellant.

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UNPUBLISHED

July 21, 2009

No. 285693

Wayne Circuit Court

LC No. 08-000512-FC

Before: Owens, P.J., and Servitto and Gleicher, JJ.

PER CURIAM.

A jury convicted defendant of assault with intent to commit murder, MCL 750.83, assault with intent to commit great bodily harm, MCL 750.84, resisting or obstructing a police officer in a manner causing serious impairment of a body function, MCL 750.81d(3), resisting or obstructing a police officer, MCL 750.81d(1), commission of a violent act while wearing body armor, MCL 750.227f, being a felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, second offense, MCL 750.227b. The trial court sentenced defendant to concurrent terms of 28 to 60 years' imprisonment for the assault with intent to murder conviction, 6 to 10 years for the assault with intent to commit great bodily harm conviction, 10 to 15 years for the count of resisting and obstructing an officer in a manner causing serious impairment of a body function, one to two years for the second resisting and obstructing conviction, two to four years for the body armor-related conviction, and three to five years for the felon in possession count, all consecutive to a five-year term of imprisonment for the felony-firearm conviction. Defendant appeals as of right. We affirm, and decide this appeal without oral argument pursuant to MCR 7.214(E).

Defendant challenges on appeal only the sufficiency of the evidence supporting his assault with intent to murder conviction. In reviewing a sufficiency challenge, this Court considers the record de novo and views the evidence in the light most favorable to the prosecution to ascertain whether a rational jury could have found the essential elements of the crime proven beyond a reasonable doubt. *People v Cline*, 276 Mich App 634, 642; 741 NW2d 563 (2007). "All conflicts with regard to the evidence must be resolved in favor of the prosecution. Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of the crime." *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005) (internal citations omitted).

A conviction of assault with intent to commit murder requires proof of the following elements: “(1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder.” *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005) (internal quotations and citations omitted). Defendant disputes only the *mens rea* element, that he possessed the intent to kill. “Because of the difficulty of proving an actor’s state of mind, minimal circumstantial evidence is sufficient to establish a defendant’s intent to kill.” *People v Unger*, 278 Mich App 210, 223; 749 NW2d 272 (2008).

Here, the evidence adequately established that defendant assaulted police officer David Garcia with the intent to commit murder. Officer Garcia testified that as he and his partner walked alongside a parked Cadillac Escalade about which they had received a dispatch, “The rear passenger door opened. I said, ‘Let me see your hands,’ and . . . gunshots just [immediately] started shooting me.” Garcia identified defendant at trial as his assailant. Garcia recounted that after he fell to the ground, defendant “[f]ollow[ed] me as if he wanted to kill me. He was standing over the top of me shooting straight down at me.” Garcia’s partner, Officer George O’Gorman, testified that as he heard gunshots, he saw defendant in a shooting stance, with his arms extended toward Officer Garcia, and that he also observed defendant close in on Garcia’s position near the corner of the Escalade before running away.

The testimony that defendant employed a dangerous weapon like a firearm to fire multiple gunshots at Officer Garcia from close proximity, and then approached Garcia to fire additional shots as he lay on the ground, gives rise to a reasonable inference that defendant intended to kill Garcia. *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996). This reasonable inference remains, irrespective that Garcia endured a gunshot wound in his left forearm and bullet fragments in his right eye, which wounds defendant suggests belie any intent on his part to kill Garcia. *Id.* (affirming the defendant’s assault with intent to murder conviction on the basis of testimony that the defendant “pointed a pistol at [the victim], warned him not to come any closer or he would kill him, and pulled the trigger several times (but no bullets fired)”). The evidence thus amply supported the jury’s determination beyond a reasonable doubt that defendant assaulted Garcia with the intent to murder him.

Affirmed.

/s/ Donald S. Owens  
/s/ Deborah A. Servitto  
/s/ Elizabeth L. Gleicher