

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STAFFONE WOODS,

Defendant-Appellant.

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UNPUBLISHED  
September 3, 2009

No. 285478  
Wayne Circuit Court  
LC No. 07-014208-FH

Before: Saad, C.J., and Whitbeck and Zahra, JJ.

PER CURIAM.

The jury convicted defendant of felonious assault, MCL 750.82, possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, and careless discharge of a firearm causing injury, MCL 752.861. The court sentenced defendant to three years' probation for the felonious assault conviction, two years' incarceration for the felony-firearm conviction, and time served for the careless discharge conviction. Defendant appeals and we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the evidence is insufficient to support his convictions of felonious assault and felony-firearm. "The elements of felonious assault are (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place the victim in reasonable apprehension of an immediate battery." *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).<sup>1</sup> Defendant challenges the third element of felonious assault, and says that he had no intent to injure or place the victim in reasonable fear of a battery. "Because the law recognizes the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient to sustain a conclusion that a defendant entertained the requisite intent." *People v Strong*, 143 Mich App 442, 452; 372 NW2d 335 (1985). We review challenges to the sufficiency of the evidence de novo. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). In reviewing a claim that the evidence was insufficient to support a defendant's conviction, this Court "must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were

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<sup>1</sup> "[A] battery is an intentional, unconsented and harmful or offensive touching of the person of another, or of something closely connected with the person." *People v Nickens*, 470 Mich 622, 627; 685 NW2d 657 (2004).

proven beyond a reasonable doubt.” *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999).

Viewing the evidence in this case in a light most favorable to the prosecution, we find that there is ample evidence showing that defendant intended to place the victim in reasonable apprehension of an immediate battery. Defendant and the victim argued earlier that evening, and the victim threatened to “mess up” defendant’s car. Later, that defendant heard a noise by his car, and defendant fired his gun into the dark and in the direction of the noise, hitting the victim. Because there is sufficient evidence to show that defendant possessed a gun and intended to place the victim in reasonable apprehension of an immediate battery, in support of his conviction of felonious assault, there is also sufficient evidence to support the felony-firearm conviction.<sup>2</sup>

Defendant also says that the trial court abused its discretion in denying his request to instruct the jury on accident as a defense to a specific intent crime, CJI2d 7.3a. This Court reviews the trial court’s determination whether a jury instruction is applicable for an abuse of discretion. *People v Gillis*, 474 Mich 105, 113; 712 NW2d 419 (2006). Jury instructions are reviewed in their entirety to determine whether they fairly present the issues and sufficiently protect the defendant’s rights. *People v McLaughlin*, 258 Mich App 635, 668; 672 NW2d 860 (2003). “The instruction to the jury must include all elements of the crime charged . . . and must not exclude from jury consideration material issues, defenses or theories if there is evidence to support them.” *People v Moldenhauer*, 210 Mich App 158, 159; 533 NW2d 9 (1995) (citation omitted). We agree with the trial court that the evidence does not support defendant’s argument that this incident was an accident. Thus, the trial court did not abuse its discretion in denying defendant’s request to instruct the jury on accident as a defense to a specific intent crime.

Affirmed.

/s/ Henry William Saad  
/s/ William C. Whitbeck  
/s/ Brian K. Zahra

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<sup>2</sup> “The elements of felony-firearm are that the defendant possessed a firearm during the commission of, or attempt to commit, a felony.” *Avant, supra* at 505.