

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ANTHONY CONNER,

Defendant-Appellant.

UNPUBLISHED

November 24, 2009

No. 288670

Wayne Circuit Court

LC No. 08-000127-FH

Before: Talbot, P.J., and O’Connell and Davis, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial convictions of assault with intent to do great bodily harm less than murder, MCL 750.84, and felonious assault, MCL 750.82. Defendant was sentenced to concurrent prison terms of 38 to 120 months for the assault with intent to do great bodily harm conviction, and two to four years for the felonious assault conviction. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant’s sole claim on appeal is that the evidence did not support his assault with intent to do great bodily harm conviction, because there was insufficient evidence that he intended to cause great bodily harm to the victim, Lamar Traylor. We disagree.

In reviewing the sufficiency of the evidence in a criminal case, this Court must review the record de novo and “view the evidence 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 proved beyond a reasonable doubt.” *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997); *People v Hammons*, 210 Mich App 554, 556; 534 NW2d 183 (1995). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000) (citation omitted). It is for the trier of fact to determine what inferences may be fairly drawn from the evidence and to determine the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). All conflicts in the evidence are to be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

The elements of assault with intent to do great bodily harm less than murder are “(1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder.” *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). “Great bodily harm means a physical injury that could seriously harm the

health or function of the body.” CJI2d 17.7(4). This is a specific intent crime. *Parcha, supra* at 239. Specifically, a defendant must have “inten[ded] to do serious injury of an aggravated nature.” *People v Mitchell*, 149 Mich App 36, 39; 385 NW2d 717 (1986). The defendant’s intent may be inferred from all the facts and circumstances surrounding the offense, *People v Lugo*, 214 Mich App 699, 709-710; 542 NW2d 921 (1995), including the defendant’s acts, the means employed to commit the assault itself, and the extent of the victim’s injuries, although actual physical injury is not a necessary element of the crime. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992); *People v Cunningham*, 21 Mich App 381, 384; 175 NW2d 781 (1970). A defendant’s intent can also be inferred from his conduct in the use of a dangerous weapon, *Parcha, supra* at 239, although use of a weapon is not a necessary element of the offense and thus it does not matter that the defendant used his bare hands; what is important is the intent with which he acted. *People v Van Diver*, 80 Mich App 352, 356; 263 NW2d 370 (1977).

Viewed in a light most favorable to the prosecution, the evidence showed that defendant assaulted Traylor in retaliation for an incident that caused defendant’s girlfriend and children to leave. Following a verbal confrontation at defendant’s home, the victim left but was followed by defendant. The victim asserted defendant hit him in the head with a handgun and threatened to kill him. Defendant admitted striking the victim but denied the use of a weapon. It is undisputed that Traylor was struck with sufficient force to rupture his left eyeball. It was for the jury to determine the credibility of these witnesses. The evidence that defendant pursued the victim and threatened to kill him, coupled with the injury inflicted, was sufficient to enable a rational trier of fact to conclude beyond a reasonable doubt that defendant intended to do serious injury of an aggravated nature. Therefore, the evidence was sufficient to sustain the jury’s verdict.

Affirmed.

/s/ Michael J. Talbot
/s/ Peter D. O’Connell
/s/ Alton T. Davis