

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
March 15, 2016

v

EDWARD EARL GORDON,  
Defendant-Appellant.

No. 325321  
Wayne Circuit Court  
LC No. 14-007256-FH

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Before: SAAD, P.J., and SAWYER and HOEKSTRA, JJ.

PER CURIAM.

Defendant appeals his convictions after a jury trial of assault with intent to do great bodily harm less than murder, MCL 750.84, and aggravated assault, MCL 750.81a. Defendant was sentenced to 5 to 10 years' imprisonment for his assault with intent to do great bodily harm conviction and one year imprisonment for his aggravated assault conviction. Because there was sufficient evidence to support defendant's convictions, we affirm.

Defendant's sole argument on appeal is that the evidence at trial was insufficient to support his convictions for assault with intent to do great bodily harm and aggravated assault. A challenge to the sufficiency of the evidence supporting a criminal conviction is reviewed de novo. *People v Harverson*, 291 Mich App 171, 177; 804 NW2d 757 (2010). This Court considers the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could find that the prosecution proved the essential elements of the crime beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Henderson*, 306 Mich App 1, 9; 854 NW2d 234 (2014). In doing so, this Court is required to resolve all evidentiary conflicts in the favor of the prosecution. *People v Stevens*, 306 Mich App 620, 628; 858 NW2d 98 (2014).

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). "Assault with intent to commit great bodily harm is a specific intent crime." *Id.* Conviction requires that the defendant had the intent to cause injury that is serious or aggravated in nature. *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005). Because intent is difficult to prove, minimal circumstantial evidence is sufficient to demonstrate the required intent. *Stevens*, 306 Mich App 620 at 629. It is permissible to infer the intent to

cause serious physical harm from the defendant's actions, such as threats made, as well as injuries sustained by the victim. *Id.* Actual injury to the victim is not an element of the crime. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992).

Viewing the evidence in a light most favorable to the prosecution, there is sufficient evidence for a rational jury to find defendant guilty of assault with intent to do great bodily harm. First, defendant attempted to cause corporal harm when he hit and kicked the victim. The victim testified that before he was physically assaulted, defendant and his associates threatened to "kick [his] ass" and called the victim an obscene name. Defendant admitted to punching the victim. There was eyewitness testimony that defendant was one of the victim's two attackers; defendant was doing the majority of the kicking; and that the victim was hit and kicked multiple times on the head and body. One eyewitness testified that the beating included "at least a dozen" kicks. The victim also testified that he withstood multiple punches and kicks while on the ground.

Second, it can be inferred from defendant's conduct and the significance of the victim's injuries that defendant had the intent to cause injury of a serious or aggravated nature. The victim, a man in his early seventies, testified that defendant and the other group members verbally threatened him and called him "old." Thus, defendant, a man in his late twenties, was aware of the difference in age between himself and the victim. The trial testimony further supported the conclusion that defendant was the primary attacker: one eyewitness saw defendant on top of the victim trying to punch the victim as he was pushed to the ground and saw defendant punch the victim in the head, while another eyewitness identified defendant as the person doing the majority of the kicking. Moreover, someone had to physically pull defendant off of the victim, and the beating only ceased after 10-15 seconds of yelling at defendant to stop. Defendant then told the victim, "That's what you get for running your . . . mouth." The victim's injuries, which included cuts on his hand and temple, bruises, head injuries, a concussion, and a swollen eye that resulted in lingering damage to his vision, were serious and required him to seek treatment at the hospital. The victim also sought follow-up treatment for his eye.

Considering the threats made by defendant, the disparate ages of the victim and defendant, the testimony that defendant hit and kicked the victim repeatedly, and the victim's physical injuries, particularly the unresolved damage to his eye, it can be inferred that defendant intended to cause injuries of an aggravated nature. This is more than minimal circumstantial evidence of defendant's intent and is sufficient to prove beyond a reasonable doubt that defendant assaulted the victim with the requisite intent. See, e.g., *People v Pena*, 224 Mich App 650, 660; 569 NW2d 871 (1997), modified in part on other grounds 457 Mich 885 (1998). Therefore, there is sufficient evidence supporting defendant's conviction for assault with intent to do great bodily harm less than murder.

Nevertheless, defendant claims that because he only punched the victim two times, this fact makes it impossible for a rational trier of fact to find the requisite intent beyond a reasonable doubt. Specifically, he points out that there was no evidence that he was a trained fighter or that he was lethal with his fists, which according to defendant means that he could not be guilty of these crimes because, as an individual of ordinary size with no special fighting skills, he could not cause serious injuries with two punches. Regardless of defendant's fighting prowess, he completely ignores the nearly 50-year difference between his age and the victim's (and the corresponding physical differences). Common sense instructs us that viciously beating an

elderly person, while the person is helpless on the ground—even without the use of a weapon—would have the effect of causing serious bodily harm. And there is a presumption that people intend the natural consequences of their actions. See *People v Dillard*, 303 Mich App 372, 378; 845 NW2d 518 (2013). Moreover, in making these arguments, defendant is relying on this Court to view the evidence in a light most favorable to him. This is contrary to the standard of review, which requires this Court to consider the evidence in a light most favorable to the prosecution. *Wolfe*, 440 Mich at 515; see also *Stevens*, 306 Mich App at 628. Defendant ignores the fact that one eyewitness testified that there were “at least a dozen” kicks and that defendant was responsible for most of them. As a result, defendant’s reliance on his testimony that he only punched the victim twice is misplaced.

Further, for the same reasons, there is also sufficient evidence in the record to support defendant’s conviction for aggravated assault. A conviction for aggravated assault requires the prosecution to prove that the defendant “assault[ed] an individual without a weapon and inflict[ed] serious or aggravated injury upon that individual without intending to commit murder or to inflict great bodily harm less than murder.” MCL 750.81a. This Court has defined “serious or aggravated injury” as “a physical injury that requires immediate medical treatment or that causes disfigurement, impairment of health, or impairment of a part of the body.” *People v Norris*, 236 Mich App 411, 415 n 3; 600 NW2d 658 (1999), quoting CJI2d 17.6(4). “[T]he need to seek immediate medical attention is only one factor used in determining whether the element is established.” *People v Brown*, 97 Mich App 606, 611; 296 NW2d 121 (1980).

At trial, there was extensive testimony that defendant assaulted the victim without a weapon and that the assault caused serious injury. The testimony of the victim and eyewitnesses established that defendant punched and kicked the helpless victim repeatedly. Furthermore, the evidence of the victim’s damaged eye and other physical injuries was uncontested. Based on the evidence of the nature and extent of the assault, a reasonable jury could find that substantial bodily injuries to the victim were attributable to defendant’s conduct. Therefore, the evidence was sufficient to support defendant’s conviction for aggravated assault.

Affirmed.

/s/ Henry William Saad  
/s/ David H. Sawyer  
/s/ Joel P. Hoekstra