

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
November 20, 2012

v

DARRELL VINCENT CARPENTER,

Defendant-Appellant.

No. 307811
Jackson Circuit Court
LC No. 10-005515-FH

Before: CAVANAGH, P.J., and HOEKSTRA and SHAPIRO, JJ.

PER CURIAM.

Defendant was convicted by a jury of felonious assault, MCL 750.82, and resisting and obstructing a police officer, MCL 750.81d(1). He was sentenced as a second-offense habitual offender, MCL 769.10, to concurrent sentences of 28 to 72 months' imprisonment for the felonious assault conviction, and 18 to 36 months' imprisonment for the resisting and obstructing a police officer conviction. Defendant appeals as of right. Because we conclude there was sufficient evidence for the jury to find defendant guilty beyond a reasonable doubt, we affirm.

Defendant's convictions arise from events that occurred on July 23, 2010. At about 11:40 a.m., officers arrived at defendant's residence in response to a domestic assault call. Officer Charles Brant walked up a set of steps leading to an enclosed porch, opened the door to the porch, and approached the interior door to the residence. Brant knocked loudly on the interior door and announced himself as being with the police department. He then left the enclosed porch and waited on the top step outside the exterior door.

After a short time, defendant opened the interior door and stood with two knives in his hand. Defendant came quickly toward Brant with the knives raised, yelling for him to get off the porch. Brant drew his service weapon and backed away as defendant approached. Defendant stopped at the exterior door, turned, and went back inside the house. After a few moments, defendant came back out onto the enclosed porch, knocked out a screen, climbed into the empty window frame, and yelled threats and obscenities at the officers. Defendant then came out onto the steps and Brant attempted to take him into custody. Defendant threatened to hit Brant and pulled his arm away from Brant's grasp. Another officer sprayed defendant twice with a chemical agent that causes burning and defendant went inside the house and shut the door. As officers prepared to knock down the door, defendant opened it and surrendered. Defendant was arrested and convicted of the charges listed above.

On appeal, defendant argues that the prosecution failed to present legally sufficient evidence at trial to support his conviction of both felonious assault and resisting and obstructing a police officer.

“We review de novo a challenge on appeal to the sufficiency of the evidence.” *People v Ericksen*, 288 Mich App 192, 195; 793 NW2d 120 (2010). When evaluating the claim, “this Court reviews the evidence in a light most favorable to the prosecutor to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt.” *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). “Circumstantial evidence and reasonable inferences arising therefrom may be sufficient to prove the elements of a crime.” *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).

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.” MCL 750.82; *Avant*, 235 Mich App at 505. Felonious assault also requires the “present ability or apparent present ability to commit a battery.” *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). MCL 750.82(1) defines a dangerous weapon as a “gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon.”

The prosecution presented sufficient evidence during the trial for a rational trier of fact to find the elements of felonious assault proven beyond a reasonable doubt. At trial, officers testified that, after Brant knocked and announced himself as a police officer, defendant came out of the house with two knives raised and advanced quickly toward Brant while yelling for him to get off the porch. Furthermore, Brant testified several times that he was afraid for his life and would have shot defendant had he come one step closer. Viewing the facts in a light most favorable to the prosecution, this is sufficient to show defendant assaulted Brant with a dangerous weapon. Additionally, the facts discussed above show sufficient circumstantial evidence that defendant intended to place Brant in fear of an immediate battery and had the present ability to do so. Therefore, sufficient evidence was presented to prove all the elements of felonious assault beyond a reasonable doubt.

The prosecution also presented sufficient evidence to sustain defendant’s conviction for resisting and obstructing a police officer. The elements necessary to establish criminal liability for resisting and obstructing a police officer are: “(1) the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer, and (2) the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties.” MCL 750.81d(1); *People v Corr*, 287 Mich App 499, 503; 788 NW2d 860 (2010). As stated in MCL 750.81d(7)(a), “obstruct” includes “the use or threatened use of physical interference or force or a knowing failure to comply with a lawful command.”

In addition to testimony concerning the assault, Brant testified that defendant knocked out a window to the porch and berated the officers, cursing and yelling that he was going to kill them. Brant also testified that when he tried to apprehend defendant, defendant raised his arm to strike him and pulled away from his grasp. This is sufficient to show defendant resisted Brant. Furthermore, testimony that defendant berated the officers and threatened to hit Brant is evidence of obstruction as provided by the statute. MCL 750.81d(7)(a). With regard to the second

element, Brant testified that he was dressed in a police uniform and loudly announced himself as a police officer. This is sufficient to prove that defendant knew Brant was a police officer. In sum, viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could find that the elements of felonious assault and resisting and obstructing a police officer were proven beyond a reasonable doubt.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Joel P. Hoekstra
/s/ Douglas B. Shapiro