

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AUBREY J. STANLEY,

Defendant-Appellant.

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UNPUBLISHED

May 26, 1998

No. 200899

Detroit Recorder's Court

LC No. 96-001299

Before: Fitzgerald, P.J., and Holbrook, Jr. and Cavanagh, JJ.

PER CURIAM.

Defendant was convicted by a jury of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to eighty to 120 months in prison for the assault conviction, to be served consecutive to a mandatory two-year sentence for the felony-firearm conviction. Defendant appeals as of right. We affirm.

The complainant testified that on October 25, 1995, he was standing on the front porch of his home when defendant shot him in the leg. Defendant contends that the evidence presented was insufficient to support his convictions because the prosecutor failed to establish beyond a reasonable doubt that defendant was the individual who committed these crimes. We disagree.

When reviewing a claim of insufficient evidence, this Court must view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). As an essential part of his case, the prosecutor must identify the accused as the person who committed the alleged offense. *People v Kern*, 6 Mich App 406, 409; 149 NW2d 216 (1967). The prosecutor may prove identity by either direct or circumstantial evidence. *Id.*

Although defendant was not identified at trial by his street name, the complainant and his two sisters identified defendant as the person who shot the complainant. The three of them testified that they recognized defendant as "a Stanley," "the older brother," or "the oldest Stanley boy" and identified him

as such when questioned by police immediately after the shooting. Defendant does not contest his identity as “the oldest Stanley boy.” This testimony occurred in a context in which it was clear that the witnesses were referring to defendant and is sufficient to identify defendant as the person who shot the complainant.

As to defendant’s argument that he had no motive to commit this crime, motive is not an element that must be proven by the prosecution in this case.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Donald E. Holbrook, Jr.  
/s/ Mark J. Cavanagh