

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALONZO E. WALKER, SR.,

Defendant-Appellant.

UNPUBLISHED
November 2, 1999

No. 206977
Recorder's Court
LC No. 96-007926

Before: Whitbeck, P.J., and Gribbs and White, JJ.

MEMORANDUM.

Defendant Alonzo E. Walker, Sr. appeals as of right from his conviction of felonious assault, MCL 750.82; MSA 28.277, entered after a bench trial. We affirm.

I. Basic Facts And Procedural History

At trial, the complainant testified that Walker swung a three-foot metal bar at him in an attempt to strike him. The complainant acknowledged that his family and Walker's family had a history of problems. While testifying at trial, Walker denied that he swung a bar at complainant but confirmed that the families had a hostile relationship. The trial court found Walker guilty as charged, concluding that Walker's testimony was not credible.

On appeal, Walker solely argues that this Court should reverse his conviction because the complainant's testimony was not credible in light of the acrimony between the families. Therefore, the prosecution did not sustain its burden of proving the offense beyond a reasonable doubt. We disagree.

II. Standard Of Review

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented 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 proven beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely

unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

III. Felonious Assault

The elements of felonious assault are: “(1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or to place the victim in reasonable apprehension of an immediate battery.” *People v Davis*, 216 Mich App 47, 53; 549 NW2d 1 (1996), quoting *People v Malkowski*, 198 Mich App 610, 614; 499 NW2d 450 (1993).

Contrary to Walker’s perception of the credibility of the testifying witnesses, the trial court determined that Walker’s testimony was not credible. Assessment of the credibility of witnesses is a matter for the trier of fact. We will not resolve the issue anew. *Vaughn, supra* at 380. The trier of fact decides what weight to give to the testimony given by each witness. *People v Thomas*, 180 Mich App 525, 542; 447 NW2d 835 (1989), remanded on other grounds 439 Mich 896 (1991).

An assault is “an attempt to commit a battery or an unlawful act which places another person in reasonable apprehension of receiving an immediate battery.” *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995), quoting *People v Johnson*, 407 Mich 196, 210; 284 NW2d 718 (1979). The complainant’s testimony that Walker swung a metal bar at him supported an inference that Walker intended to injure or scare him. An iron bar is a dangerous weapon. MCL 750.82(1); MSA 28.277(1). That Walker had health problems did not mandate a conclusion that he did not have the ability to commit a battery. *Grant, supra* at 202-203. Viewed in a light most favorable to the prosecution, the complainant’s testimony and the reasonable inferences drawn therefrom established the elements of felonious assault beyond a reasonable doubt. *Vaughn, supra*.

Affirmed.

/s/ William C. Whitbeck

/s/ Roman S. Gribbs

/s/ Helene N. White