

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAVAAR GOODS,

Defendant-Appellee.

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UNPUBLISHED

May 25, 2004

No. 244121

Wayne Circuit Court

LC No. 01-013144

Before: Schuette, P.J., and Bandstra and Cooper, JJ.

MEMORANDUM.

Defendant Javaar Goods appeals as of right his jury trial conviction for possession of a firearm during the commission of a felony.<sup>1</sup> Defendant was also charged with, but acquitted of felonious assault.<sup>2</sup> Defendant was sentenced to two years' imprisonment for his felony-firearm conviction. We affirm.

I. Facts

On October 24, 2001, Detroit police officers Paul Kraus and Kevin King responded to a report of an individual carrying a weapon through a neighborhood. The officers were directed to a home with a red van parked in front. While Officer King spoke to two individuals inside the van, Officer Kraus noticed defendant come out of the home carrying a blue steel automatic weapon. Officer Kraus yelled for defendant to drop his weapon, but the officers testified that defendant raised his weapon instead to aim at Officer Kraus. Both officers fired at defendant who ran back into and through the house. Officer Kraus ran to the rear of the house and met defendant at the back door just as defendant threw his weapon into the bushes. After defendant was arrested, his gun was located and discovered to be fully loaded. Defendant admitted that he took the gun without permission while his father, a Michigan State Trooper, was out of town. Defendant denied, however, aiming the weapon at Officer Kraus, or even having the weapon on the front porch.

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<sup>1</sup> MCL 750.227b.

<sup>2</sup> MCL 750.82.

## II. Sufficiency of the Evidence

Defendant argues that there was insufficient evidence to support his felony-firearm conviction. We disagree. In sufficiency of the evidence claims, this Court reviews the evidence in the light most favorable to the prosecution and determines whether a rational factfinder could find that the essential elements of the crime were proven beyond a reasonable doubt.<sup>3</sup> “[C]ircumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of a crime.”<sup>4</sup>

To convict a defendant of felony-firearm, the prosecution must prove that the defendant possessed a firearm during the commission or attempted commission of a felony.<sup>5</sup> The elements of the predicate felony, felonious assault, are: (1) an assault, (2) with a dangerous weapon, and (3) with the intent to injure or place another in reasonable apprehension of an immediate battery.<sup>6</sup>

The prosecution presented sufficient evidence to prove the elements of felony-firearm, and felonious assault, beyond a reasonable doubt. Officers Kraus and King both testified that defendant raised and aimed his weapon at Officer Kraus, placing Officer Kraus in fear of being shot. Defendant testified that he was in possession of a loaded handgun immediately before this incident, which he threw into the bushes after the incident. As sufficient evidence was presented that defendant possessed a handgun while committing felonious assault, defendant’s felony-firearm conviction was proper.

## III. Inconsistent Verdicts

Defendant takes issue with the fact that the jury rendered an inconsistent verdict by acquitting him of felonious assault, the predicate felony for the charge of felony-firearm, yet convicting him of felony-firearm.<sup>7</sup> However, it is well established that a jury may render an inconsistent verdict in that a defendant may be acquitted of felonious assault and convicted of felony-firearm by a jury.<sup>8</sup> “‘Juries are not held to any rules of logic’ and have the power to

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<sup>3</sup> *People v Hunter*, 466 Mich 1, 6; 643 NW2d 218 (2002).

<sup>4</sup> *People v Lee*, 243 Mich App 163, 167-168; 622 NW2d 71 (2000).

<sup>5</sup> MCL 750.227b; *People v Akins*, 259 Mich App 545, 554; 675 NW2d 863 (2003), quoting *People v Avant*, 235 Mich App 499, 505; 597 NW2d 864 (1999).

<sup>6</sup> MCL 750.82; *Avant*, *supra* at 505.

<sup>7</sup> Defendant frames this issue as one involving double jeopardy. However, defendant was not subjected to successive prosecutions, nor given multiple punishments for the same offense. He was convicted and sentenced regarding only one offense, felony-firearm. Therefore, the federal and state prohibitions against double jeopardy do not apply here. US Const, Am V; Const 1963, art 1, § 15; *People v Herron*, 464 Mich 593, 599; 628 NW2d 528 (2001).

<sup>8</sup> *People v Lewis*, 415 Mich 443, 449-453; 330 NW2d 16 (1982), after remand 422 Mich 923; 369 NW2d 199 (1985), citing *People v Vaughn*, 409 Mich 463; 295 NW2d 354 (1980).

acquit as a matter of leniency.”<sup>9</sup> Furthermore, a conviction for felony-firearm may be had upon proof that the defendant committed an underlying felony, not necessarily was convicted of that underlying felony.<sup>10</sup>

As noted *supra*, the prosecution presented sufficient evidence to prove the elements of felonious assault. Although the jury declined to convict defendant of the predicate felony, such a conviction is unnecessary and the prosecution met its burden of proof. Therefore, defendant’s conviction for felony-firearm should be upheld.

Affirmed.

/s/ Bill Schuette  
/s/ Richard A. Bandstra  
/s/ Jessica R. Cooper

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<sup>9</sup> *Id.* at 449, quoting *Vaughn*, *supra* at 466.

<sup>10</sup> MCL 750.82; *People v Burgess*, 419 Mich 305, 310; 353 NW2d 444 (1984), citing *Lewis*, *supra*.