

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROTONDA A. HAMPTON,

Defendant-Appellant.

UNPUBLISHED

June 15, 2004

No. 245621

Wayne Circuit Court

LC No. 01-001662-01

Before: Neff, P.J., and Zahra and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right her bench trial conviction for attempted felonious assault, MCL 750.92, malicious destruction of property, MCL 750.377a(1)(d), and felony-firearm, MCL 750.227b. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant asserts that there was insufficient evidence to support the attempted felonious assault conviction. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992). The standard of review is deferential: a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the verdict. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

The elements of felonious assault are (1) an assault, (2) with a deadly weapon, and (3) with the intent to injure or place the victim in reasonable fear or apprehension of immediate battery. *People v Wardlaw*, 190 Mich App 318, 319; 475 NW2d 387 (1991). An attempt consists of (1) an intent to do an act or bring about certain consequences that would amount to a crime, and (2) an act in furtherance of that intent that goes beyond mere preparation. *People v Jones*, 443 Mich 88, 100; 504 NW2d 158 (1993). Michigan recognizes the crime of attempted felonious assault. *Id.*, 102.

There was sufficient evidence to find defendant guilty of attempted felonious assault. Defendant made verbal threats, expressing an intent to commit a battery. Her possession of a gun showed that she was able to do so. The fact that the target of the threats may not have seen a weapon was not material to the case. There was evidence to show that defendant had the

requisite intent, and acted in furtherance of that intent, without regard to whether the victim saw the weapon.

Affirmed.

/s/ Janet T. Neff

/s/ Brian K. Zahra

/s/ Christopher M. Murray