STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LATIF BEAG, JR.,

Defendant-Appellant.

UNPUBLISHED
September 23, 2004

No. 247642
Wayne Circuit Court
LC No. 02-006662

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

PER CURIAM.

Defendant was charged with three counts of assault with intent to commit murder, MCL 750.83, felon in possession of a firearm, MCL 750.224f, carrying a concealed weapon, MCL 750.227, possession of a firearm during the commission of a felony, MCL 750.227b, and two counts of resisting and obstructing, MCL 750.479. Following a bench trial, defendant was convicted of one count of assault with intent to commit murder and of the lesser offense of felonious assault, MCL 750.82, as to the other two counts, and guilty as charged regarding the remaining counts except CCW, which was dismissed. Defendant was sentenced as an habitual offender, fourth offense, MCL 769.12, to prison terms of fifteen to thirty years for assault with intent to commit murder, two to four years for felonious assault, three to five years for felon in possession of a firearm, and one to two years for resisting and obstructing, to be served consecutively to the mandatory two-year term for felony-firearm. Defendant appeals as of right. We affirm.

Defendant's sole claim on appeal is that the evidence was insufficient to sustain the verdict regarding the one count of assault with intent to commit murder for which he was convicted.

A challenge to the sufficiency of the evidence in a bench trial is reviewed de novo on appeal. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000), aff'd 466 Mich 39; 642 NW2d 339 (2002). This Court reviews the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that each element of the crime was proved beyond a reasonable doubt. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). Circumstantial evidence and reasonable inferences drawn therefrom are sufficient to prove the elements of a crime. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The trial court's factual findings are reviewed for clear error. A finding of fact is considered "clearly erroneous if, after review of the entire record, the appellate court is left with

a definite and firm conviction that a mistake has been made." *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991). "An appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses." *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997).

The elements of assault with intent to commit murder are (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder. *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997). The intent to kill may be proven by inference from any facts in evidence, including the type of weapon used and the victim's injuries, and minimal circumstantial evidence is sufficient. *People v Mills*, 450 Mich 61, 71; 537 NW2d 909 (1995), modified 450 Mich 1212; 539 NW2d 504 (1995); *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999); *People v Ray*, 56 Mich App 610, 615; 224 NW2d 735 (1974).

The evidence showed that the police were dispatched to a bar to investigate a shooting. They arrived to find defendant in possession of a weapon. When they ordered defendant to drop the weapon, he turned, aimed at one of the officers, and fired. Although defendant did not express an intent to kill the officer and did not succeed in inflicting any injuries, the intentional discharge of a firearm at someone within range, done under circumstances that did not justify, excuse, or mitigate the crime, is sufficient to prove assault with intent to commit murder. *People v Lipps*, 167 Mich App 99, 105; 421 NW2d 586 (1988); *People v Johnson*, 54 Mich App 303, 304; 220 NW2d 705 (1974).

Affirmed.

/s/ Stephen L. Borrello
/s/ Christopher M. Murray
/s/ Karen M. Fort Hood