

STATE OF MICHIGAN
COURT OF APPEALS

In re BRENTON TURNER, a Minor

UNPUBLISHED
December 1, 2009

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

No. 286595
Wayne Circuit Court
Family Division
LC No. 07-464909

BRENTON TURNER,

Respondent-Appellant.

Before: Gleicher, P.J., and Fitzgerald and Wilder, JJ.

PER CURIAM.

Respondent appeals as of right an order of disposition following an adjudication of responsibility for first-degree home invasion, MCL 750.110a, and assault with intent to do great bodily harm less than murder, MCL 750.84. We affirm.

On September 26, 2007, Lloyd Williams, III, Deandre Coleman, respondent, and two other males got into a fight while walking home from school. Williams, Coleman, and respondent were familiar with one another because Coleman, respondent, and Williams's father lived in the same neighborhood near Charles and Dwyer Streets in Detroit, Michigan. Roderick Jenkins also lived in the same neighborhood. Williams, Coleman, and Jenkins had grown up together, but Williams did not know respondent as well.

On September 27, 2007, respondent, Williams, and other unknown persons got into another fight, and this time Williams took respondent's telephone. Williams thereafter called Jenkins with that telephone, telling Jenkins they had "jumped [his] boy" and that Jenkins was "next." Following the telephone call, Jenkins and a group of people went to Williams's father's house.

Williams was alone at his father's house on Charles Street watching television in the basement when he heard people outside making verbal threats and referring to him by name. Williams saw that the side door to the house was open and that there was a crowd of people outside, so Williams locked the door. Williams testified that he then saw Coleman break the window on the door, and an adult male kicked in the door. Williams ran to his father's bedroom

and locked the door, but the same man who had kicked in the outer door also kicked in the bedroom door and grabbed Williams. The man, who was alone in the house at the time, dragged Williams back into the basement. Once Williams was in the basement the rest of the crowd from outside came into the house and down to the basement.

Williams testified that 20 to 25 people came in, but he told the original reporting officer, Officer Kerry Byars, that eight people came in. Williams believed he told Officer Byars that 15 to 20 people came in. Of the group of people that came down to the basement, the only name Williams gave to Officer Byars was “Deangelo,” and Williams did not provide a last name. Williams testified that respondent, Coleman, and Jenkins, along with Coleman’s sister, Crystal Coleman, were among the people who went into basement. Williams said that none of them had permission to be in the house.

Williams testified that respondent, Coleman, and Jenkins assaulted him while he was on the floor. While his eyes were open throughout the attack, he did not always see the faces of the attackers because he was trying to grab a table leg to pull himself under a table. Williams testified that Crystal Coleman stabbed him with a knife. Williams lost consciousness as a result of the attack and awakened that evening in the hospital.

Williams was discovered by his father and was initially taken to Conner Creek Hospital and then transported to St. John Hospital. Williams’s mother, Kimberly Richardson, saw her son while he was at St. John and observed that he had a black eye, his face and head were swollen, he had footprints on his chest, and he was still unconscious. She also observed what she called “print marks” on his arm from a knife. Williams was discharged from St. John that night. The medical records from Williams’s treatment at St. John listed his injuries as a closed head injury and a chest contusion resulting from a physical assault. The head injury was not considered serious at the time of treatment. Williams received follow-up care at Children’s Hospital. In the course of this treatment, it was discovered that he had also suffered a dislocated shoulder as a result of the attack. Williams was referred to Receiving Hospital to see a surgeon for that injury.

While Williams identified respondent as one of his attackers, Jenkins testified that respondent was not at the residence and did not participate in the attack. Jenkins said there were 15 people or less at the house. Jenkins testified that he only knew one person in the group, and identified that person only as Darius. Jenkins testified that Darius, a juvenile, kicked in the door, and a group of “little girls” from across the street were the people who stomped Williams. Jenkins testified that he did not have permission to go in the house, but he also claimed that he did not go into the basement and did not touch Williams.

Respondent argues that there was insufficient evidence to prove beyond a reasonable doubt that he committed the two offenses. Respondent does not challenge the sufficiency of the evidence as to any specific element of either offense; rather, respondent generally asserts that the testimony of the victim was so incredible that the trial court should not have relied on it in adjudicating respondent responsible. We disagree.

This Court reviews challenges to the sufficiency of the evidence at a bench trial *de novo*. *People v Sherman-Huffman*, 241 Mich App 264, 265; 615 NW2d 776 (2000). This Court views the evidence “in a light most favorable to the prosecution to determine whether the court could have found that the essential elements of the crime were proved beyond a reasonable doubt.” *Id.*

In doing so, this Court must “avoid weighing the proofs or determining what testimony to believe.” *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). “Findings of fact by the trial court may not be set aside unless they are clearly erroneous.” *People v Robinson*, 475 Mich 1, 5; 715 NW2d 44 (2006). Conflicts in the evidence are decided in favor of the prosecution. *People v Harrison*, 283 Mich App 374, 378; 768 NW2d 98 (2009). Circumstantial evidence and reasonable inferences drawn from it can be sufficient to prove the elements of a crime beyond a reasonable doubt. *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993). “An intent to harm the victim can be inferred from defendant’s conduct.” *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997).

The trial court found the testimony of the victim, Williams, to be credible. The trial court did not believe the testimony of Jenkins that respondent was not present during the attack and that the victim was assaulted by “little girls.” This Court will not reweigh the proofs or decide what witness to believe in deciding the issue as presented. *Terry, supra* at 452. There is nothing in the record to suggest that the trial court’s findings of fact were clearly erroneous. Rather, Williams testified that respondent entered Williams’s father’s home without permission while Williams was lawfully present in the home. While inside the home, respondent and others assaulted Williams repeatedly, resulting in Williams losing consciousness and suffering both a head injury and a dislocated shoulder. When viewed in a light most favorable to the prosecution, the evidence and reasonable inferences drawn from it were sufficient for the trial court to find that respondent entered the home without permission and with the intent to commit the assault on a person lawfully present and that respondent intended to do great bodily harm less than murder. MCL 750.110a; MCL 750.84. The elements of first-degree home invasion and assault with intent to do great bodily harm less than murder were proven beyond a reasonable doubt.

Affirmed.

/s/ Elizabeth L. Gleicher
/s/ E. Thomas Fitzgerald
/s/ Kurtis T. Wilder