

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEJUAN ALLEN SQUARE,

Defendant-Appellant.

UNPUBLISHED

December 14, 2010

No. 295410

Oakland Circuit Court

LC No. 2009-226237-FC

Before: WHITBECK, P.J., and ZAHRA and FORT HOOD, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of three counts of assault with intent to commit murder, MCL 750.83, four counts of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b, intentional discharge of a firearm, MCL 750.234, and carrying a concealed weapon, MCL 750.227. He was sentenced to 15 to 25 years' imprisonment for the assault convictions, two years' imprisonment for the felony-firearm convictions, two to four years' imprisonment for the discharge of a firearm conviction, and two to five years' imprisonment for the carrying a concealed weapon conviction. Defendant appeals as of right, and we affirm.

Defendant's conviction arises out of a shooting into an occupied home in Oak Park. A young woman reported the theft of money from an occupant of the home. In retaliation, defendant confronted the occupants of the home by firing a weapon into the front door and living room where three men were in close proximity to that location when the bullets were fired.

On appeal, defendant contends that there was insufficient evidence of intent to kill to support the assault with intent to commit murder convictions. Additionally, defendant contends that there was insufficient evidence to support the convictions involving two home occupants because they were not in close proximity to the gunfire. We disagree.

A challenge to the sufficiency of the evidence is reviewed de novo. *People v Martin*, 271 Mich App 280, 340; 721 NW2d 815 (2006). When reviewing a claim of insufficient evidence, this Court reviews the record in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *In re Contempt of Henry*, 282 Mich App 656, 677; 765 NW2d 44 (2009). Appellate review of a challenge to the sufficiency of the evidence is deferential. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). The reviewing court must draw all

reasonable inferences and examine credibility issues in support of the jury verdict. *Id.* When assessing a challenge to the sufficiency of the evidence, the trier of fact, not the appellate court, determines what inferences may be fairly drawn from the evidence and the weight to be accorded those inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). This Court must not interfere with the jury's role as the sole judge of the facts when reviewing the evidence. *People v Meshell*, 265 Mich App 616, 619; 696 NW2d 754 (2005).

"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 McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). In this case, defendant only challenges the intent element of the crime. The question of intent presents an issue for resolution by the trier of fact. *People v Whitaker*, 187 Mich App 122, 128; 466 NW2d 364 (1991). "[B]ecause it can be difficult to prove a defendant's state of mind on issues such as knowledge and intent, minimal circumstantial evidence will suffice to establish the defendant's state of mind, which can be inferred from all the evidence presented." *People v Kanaan*, 278 Mich App 594, 622; 751 NW2d 57 (2008). "A factfinder can infer a defendant's intent from his words or from the act, means, or the manner employed to commit the offense." *People v Hawkins*, 245 Mich App 439, 458; 628 NW2d 105 (2001). A jury may infer the intent to kill based on the use of a dangerous weapon. *People v Dumas*, 454 Mich 390, 403; 563 NW2d 131 (1997).

Although defendant contends that there was insufficient evidence of intent to support the conviction, defendant went to the home to recover money for a friend. He carried a weapon to the porch and began firing after the door was opened. Three witnesses testified that they were in the front room or front hallway when the firing began, and they ran from the area. An actual physical gunshot wound is not an element of an assault with intent to murder conviction, and the jury concluded that defendant had the requisite intent in light of all the evidence, including photographs of the scene where occupants identified their location, the bullet holes in the interior of the home, and defendant's manner and statements after the shooting. Moreover, three witnesses testified regarding their location in the home, and the jury concluded that they were in proximity to defendant's firing direction. Accordingly, on this record, we cannot conclude that there was insufficient evidence to support the convictions. In light of this holding, we need not address defendant's request for resentencing.

Affirmed.

/s/ William C. Whitbeck
/s/ Brian K. Zahra
/s/ Karen M. Fort Hood