

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES AARON HALL,

Defendant-Appellant.

UNPUBLISHED

October 18, 2011

No. 299670

Macomb Circuit Court

LC No. 2009-005412-FC

Before: FORT HOOD, P.J., and HOEKSTRA and METER, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction by a jury of assault with intent to commit murder, MCL 750.83. Although the jury also convicted defendant of assault with intent to do great bodily harm less than murder, MCL 750.84, with respect to another victim, he does not appeal this conviction. The trial court sentenced defendant to 135 to 360 months' imprisonment for the assault with intent to murder conviction and 34 to 120 months' imprisonment for the assault with intent to do great bodily harm less than murder conviction. We affirm.

Defendant argues that the prosecution failed to present sufficient evidence to support the jury's finding that defendant committed assault with intent to murder. We disagree.

"[W]hen determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found the essential elements of the crime were proven beyond a reasonable doubt." *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Although this Court reviews the record de novo, *People v Martin*, 271 Mich App 280, 340; 721 NW2d 815 (2006), "[t]he standard of review is deferential" and this Court must "draw all reasonable inferences and make credibility choices in support of the jury verdict," *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

To establish assault with intent to murder, the prosecution must prove that the defendant committed: "(1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder." *People v Barclay*, 208 Mich App 670, 674; 528 NW2d 842 (1995). Defendant only challenges the intent element on appeal.

The jury may consider all of the facts and circumstances in determining whether the defendant had the intent to kill. *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998). Circumstantial evidence, and any reasonable inferences drawn from such evidence, may constitute sufficient proof of intent. *Barclay*, 208 Mich App at 674. Minimal circumstantial evidence is sufficient to prove intent because of the difficulty in proving an actor's state of mind. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999). The jury may consider the weapon or instrument the defendant used in the assault and may infer an intent to kill from the defendant's use of a dangerous weapon. *People v DeLisle*, 202 Mich App 658, 672; 509 NW2d 885 (1993).

Viewed in the light most favorable to the prosecution, the evidence was sufficient to support a finding, beyond a reasonable doubt, that defendant intended to kill Randy Ihns. The facts established that defendant approached Ihns's friend, Aaron Kern, while he was on his back, and attacked Kern by stomping on his groin. In the ensuing fight, Ihns intervened between defendant and Kern, and defendant used a steak knife to assault Ihns. He stabbed Ihns four times, once in the stomach and three times in the torso. The use of a knife and the repeated nature of the attack supports the jury's inference that defendant intended to kill Ihns. The location and serious nature of Ihns's stab wounds, including a six-inch deep stab wound to his stomach, also support the jury's finding that defendant intended to kill. Finally, defendant's subsequent statement to police officers that he intended to "finish the job" supports the jury's finding of defendant's intent to kill. Based on this evidence, a rational jury could find, beyond a reasonable doubt, that defendant intended to kill Ihns.

Affirmed.

/s/ Karen M. Fort Hood

/s/ Joel P. Hoekstra

/s/ Patrick M. Meter