

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE RAPHAEL TRAYLOR,

Defendant-Appellant.

UNPUBLISHED

March 21, 2013

No. 307733

Wayne Circuit Court

LC No. 11-005668-FC

Before: JANSEN, P.J., and FITZGERALD and K. F. KELLY, JJ.

PER CURIAM.

A jury convicted defendant of assault with intent to do great bodily harm less than murder, MCL 750.84, assault with a dangerous weapon, MCL 750.82, carrying a concealed weapon, MCL 750.227, assaulting, resisting, or obstructing a police officer, MCL 750.81d(1), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant to prison terms of three to ten years for the assault with intent to do great bodily harm less than murder conviction, two to four years for the assault with a dangerous weapon conviction, two to five years for the carrying a concealed weapon conviction, one to two years for the assaulting, resisting, or obstructing a police officer conviction, and two years for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant's sole argument on appeal is that the prosecution failed to present sufficient evidence to support defendant's conviction of assault with intent to do great bodily harm less than murder. We disagree.

A challenge to the sufficiency of the evidence is reviewed de novo. *People v Ericksen*, 288 Mich App 192, 195; 793 NW2d 120 (2010). 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. *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012). Conflicts in the evidence are resolved in favor of the prosecution, and circumstantial evidence and reasonable inferences arising from that evidence may constitute proof of the elements of the crime. *People v Brantley*, 296 Mich App 546, 550; 823 NW2d 290 (2012).

The elements of assault with intent to do great bodily harm less than murder are: "(1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder." *People v Brown*, 267 Mich App 141, 148; 703

NW2d 230 (2005). Assault with intent to do great bodily harm less than murder is a specific intent crime. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). “An actor’s intent may be inferred from all of the facts and circumstances, and because of the difficulty in proving an actor’s state of mind, minimal circumstantial evidence is sufficient.” *People v Harverson*, 291 Mich App 171, 178; 804 NW2d 757 (2010).

Defendant does not challenge each element of the offense but, rather, only asserts that the requirement of intent to do great bodily harm less than murder was not established. He admits that he pointed the gun in the air, but contends that the prosecution failed to present sufficient evidence to support a finding that defendant pointed and fired his gun at Officer Yott.

Viewed in the light most favorable to the prosecution, the evidence established that Officer Yott was pursuing defendant when he observed defendant reach to his right waistband while at the lighted intersection of Bennett Street and Wormer Street. Officer Yott then saw defendant’s shadow with a weapon in defendant’s hand. Defendant turned, aimed his gun at Officer Yott, and fired at him. Defendant then fired two additional shots after Officer Yott fell to the ground to take cover. Officer Yott emphasized that the muzzle flash was at him and that defendant extended his arm out toward him. Although defendant challenges this testimony, the credibility of Officer Yott’s testimony presented an issue for resolution by the trier of fact, and we defer to the jury’s role as the sole judge of the facts. *People v Malone*, 287 Mich App 648, 654; 792 NW2d 7 (2010). Accordingly, there was sufficient evidence to support the requirement of intent to commit great bodily harm less than murder.

Affirmed.

/s/ Kathleen Jansen
/s/ E. Thomas Fitzgerald
/s/ Kirsten Frank Kelly