

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD WILLIAM BATTEN,

Defendant-Appellant.

UNPUBLISHED
February 24, 2005

No. 252367
Wayne Circuit Court
LC No. 01-010722

Before: Fort Hood, P.J., and Griffin and Donofrio, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction for assault with intent to commit great bodily harm less than murder, MCL 750.84. Defendant was sentenced to nineteen months to ten years in prison. We affirm.

Defendant argues on appeal that there was insufficient evidence to support his conviction. We disagree.

A challenge to the sufficiency of the evidence for a criminal conviction is reviewed de novo to determine if, when viewed in the light most favorable to the prosecutor, it could lead a rational trier of fact to find all the essential elements of the crime proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 723; 597 NW2d 73 (1999). The “standard of review is deferential, and requires a reviewing court to draw all reasonable inferences and resolve credibility conflicts in support of the jury’s verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Defendant first argues that there was insufficient evidence to support the essential element of “intent” underlying his conviction for assault with intent to commit great bodily harm. The elements of assault with intent to commit great bodily harm less than murder are an attempt or offer with force to do corporal harm to another (assault), coupled with intent to do great bodily harm less than murder. *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). However, given the difficulty of proving state of mind, minimal circumstantial evidence is sufficient to prove that an actor had the requisite intent, *People v Strong*, 143 Mich App 442, 452; 372 NW2d 335 (1985), which can be inferred from the surrounding facts and circumstances, *People v Beaudin*, 417 Mich 570, 575; 339 NW2d 461 (1983). The defendant’s intent can be inferred from the defendant’s acts, the means employed to commit the assault itself, and the extent of the victim’s injuries, although actual physical injury is not a necessary element

of the crime. *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992); *People v Cunningham*, 21 Mich App 381, 384; 175 NW2d 781 (1970).

With respect to the injuries suffered by Cagle in this case, the evidence at trial, when viewed in a light most favorable to the prosecution, indicated that defendant, without warning, stabbed Cagle in the chest with such force that the knife entered his chest cavity and punctured his lung as Cagle attempted to leave the premises. Accordingly, given this evidence, and considering that questions of credibility and intent are properly resolved by the trier of fact, to whom this Court must give deference on such issues, see *People v Lemmon*, 456 Mich 625, 646; 576 NW2d 129 (1998), the prosecutor presented sufficient evidence to support defendant's conviction.

Defendant alternatively argues that the prosecution failed to proffer sufficient evidence to overcome his defense of self-defense. Once a defendant introduces evidence of self-defense, the prosecutor bears the burden of proving beyond a reasonable doubt that the defendant did not act in self-defense. CJ12d 7.20; *People v Elkhoja*, 251 Mich App 417, 443; 651 NW2d 408 (2002), vacated in part on other grds 467 Mich 916 (2003). A claim of self-defense first requires proof that defendant has acted in response to an assault. *Id.* at 442 (citing *City of Detroit v Smith*, 235 Mich App 235, 238; 597 NW2d 247 (1999)). If the defendant honestly and reasonably believes that his life is in imminent danger or that there is a threat of serious bodily harm and that it is necessary for him to exercise deadly force, then his actions will be justified by self-defense. *People v Riddle*, 467 Mich 116, 119; 649 NW2d 30 (2002).

Applying these principles to the instant case, defendant argues that his girlfriend testified that Cagle acted first by punching defendant and stabbing him in the leg. She further testified that, while she and defendant took refuge in the house, Cagle threw a brick through the front door, striking one of her children in the head and the other in the foot.

The balance of the witness testimony, however, establishes that defendant attacked Cagle without warning as Cagle left the party. Witnesses did not see Cagle stab defendant, and Cagle denies doing so. Indeed, one witness testified that he observed what appeared to be defendant stabbing himself in the leg. Three witnesses, including Cagle, further testified that Cagle threw the brick *after* the initial attack by defendant.

Notwithstanding defendant's girlfriend's testimony, it is fundamental that this Court should not interfere with the jury's role of determining the weight of evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992); *People v Fletcher*, 260 Mich App 531, 561; 679 NW2d 127 (2004). It is for the trier of fact, rather than this Court, to determine what inferences can be fairly drawn from the evidence and to determine the weight to be accorded to the inferences. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002). A prosecutor need not negate every reasonable theory of innocence, but must only prove his own theory beyond a reasonable doubt in the face of whatever contradictory evidence the defendant provides. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Based on the record, the prosecution set forth sufficient evidence to provide the jury a reasonable basis for finding, beyond a reasonable doubt, that defendant did not have a reasonable belief that he was in imminent danger so as to justify his actions.

Affirmed.

/s/ Karen M. Fort Hood
/s/ Richard Allen Griffin
/s/ Pat M. Donofrio