

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DURICO EUGENE MOSES,

Defendant-Appellant.

UNPUBLISHED

July 27, 2006

No. 261043

Wayne Circuit Court

LC No. 04-010688-01

Before: Neff, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction for aggravated assault, MCL 750.81a. We affirm.

Defendant argues that the prosecution failed to provide sufficient evidence to prove he had the requisite intent to commit an assault. We disagree. We review de novo sufficiency of the evidence claims to determine whether the evidence would justify a rational jury's finding that the defendant was guilty beyond a reasonable doubt. *People v McGhee*, 268 Mich App 600, 622; 709 NW2d 595 (2005). Direct and circumstantial evidence is viewed in the light most favorable to the prosecution. *People v Hardiman*, 466 Mich 417, 428; 646 NW2d 158 (2002).

Aggravated assault is an assault without a weapon that inflicts a serious or aggravated injury upon another, without the intent to murder or do great bodily harm less than murder. *People v Brown*, 97 Mich App 606, 610; 296 NW2d 121 (1980). A serious or aggravated injury is defined as "substantial bodily (physical) injury or injury that necessitated immediate medical treatment or caused disfigurement, impairment of health or impairment of any bodily part." *Id.* at 611. The only intent requirement is the general intent to commit the assault. See *People v Johnson*, 407 Mich 196, 218-220; 284 NW2d 718 (1979).

According to the victim, defendant grabbed her neck and threw her down on the bed; she hit her head on the window sill; defendant began choking her; he then loosened his grip on her neck but began hitting her; she fell to the floor; defendant grabbed her by one leg, dragged her to the middle of the floor, and retrieved a knife from the kitchen, but ultimately set it down. The victim's injuries consisted of two black eyes, a cut above the left eyebrow, and a broken metacarpal bone requiring surgery and physical therapy. Although, defendant presented a different account, viewing the evidence in the light most favorable to the prosecution, there was sufficient evidence from which a rational jury could find beyond a reasonable doubt that

defendant intended to assault the victim, and that the assault resulted in the infliction of a serious or aggravated injury.

We affirm.

/s/ Janet T. Neff
/s/ Richard A. Bandstra
/s/ Brian K. Zahra