STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED July 6, 2006
V	No. 261901 Wayne Circuit Court
JOHN PATRICK CONNELLEY, Defendant-Appellant.	LC No. 04-011648-01

Before: Davis, P.J., and Sawyer and Schuette, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of assault and battery, MCL 750.81, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

I. FACTS

Defendant was charged with one count of first-degree home invasion, MCL 750.110a(2), and two counts of assault and battery, MCL 750.81, as a result of allegations that he entered the home of Cheryl Ridge and threatened occupants with a rock. Ridge testified that defendant entered her home without permission, accused her son, David, of hitting his car with a rock while carrying a rock and then threatened to strike David with the rock. Ridge also stated that Matt Finney and Ronald Osborne intervened to stop defendant from striking David.

Osborne testified that after defendant entered the home carrying a rock and threatened David, defendant and Finney started fighting, and then Osborne left the home. Osborne stated that defendant followed him outside and struck him from behind, knocking his glasses off his head.

David Ridge testified that defendant entered his home carrying a rock, accused him of striking defendant's car with a rock, and threatened to hit him with the rock. Ridge stated that as defendant left the home, he struck Osborne, and that something happened to Osborne's glasses.

Defendant testified that he went to the Ridge home and asked who threw a rock at his car. Defendant stated that Osborne and Finney converged on him, started hitting him, and then he crawled out of the Ridge home.

The trial court granted defendant's motion for a directed verdict on the charge of first-degree home invasion, acquitted him of assault and battery of David Ridge, and convicted him of assault and battery of Osborne.

II. SUFFICIENCY OF EVIDENCE

A. Standard of Review

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). A trial court's findings of fact are reviewed for clear error. MCR 2.613(C). A finding is considered to be clearly erroneous if, after a review of the entire record, we are left with the firm and definite conviction that a mistake was made. *People v Gistover*, 189 Mich App 44, 46; 472 NW2d 27 (1991).

B. Analysis

An assault is an attempt to commit a battery, or an unlawful act that places another person in reasonable apprehension of receiving an immediate battery. *People v Grant*, 211 Mich App 200, 202; 535 NW2d 581 (1995). A battery is an intentional, unconsented, and harmful or offensive touching of the person of another, or of something closely connected to the person. *People v Nickens*, 470 Mich 622, 628; 685 NW2d 657 (2004). Defendant argues that the evidence produced at trial was insufficient to support his conviction of assault and battery of Osborne. We disagree.

Osborne testified that as he was leaving the Ridge home, defendant followed him and struck him from behind, knocking his glasses off his head. David Ridge testified that defendant pushed Osborne, and that as a result of the push, something happened to Osborne's glasses. Based on Osborne's testimony that he was attempting to leave the residence and that defendant struck him from behind, the trial court, sitting as the trier of fact, was entitled to infer that the touching of Osborne's person by defendant was intentional and unconsented. *Nickens*, *supra*; *Vaughn*, *supra*. The testimony of the witnesses differed in various respects; however, the trial court was entitled to accept Osborne's testimony that defendant struck him over defendant's testimony. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Thus, the trial

court did not clearly err in finding the evidence was sufficient to support defendant's conviction.

Affirmed.

/s/ Alton T. Davis
/s/ David H. Sawyer
/s/ Bill Schuette