

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIE MACK GARLAND,

Defendant-Appellant.

UNPUBLISHED

March 28, 1997

No. 191241

Recorder's Court

LC No. 94-006365

Before: Doctoroff, P.J., and Michael J. Kelly and Young, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of voluntary manslaughter, MCL 750.321; MSA 28.548. Defendant was sentenced to nine to fifteen years in prison. We affirm.

Defendant argues on appeal that the evidence presented at trial was insufficient to support his conviction. We disagree. In determining whether sufficient evidence has been presented to sustain a conviction, the Court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 516, n 6; 489 NW2d 748, amended 441 Mich 1201 (1992); *People v Hampton*, 407 Mich 354, 366; 285 NW2d 284 (1979), cert den 449 US 885; 101 S Ct 239; 66 L Ed 2d 110 (1980).

Voluntary manslaughter is an intentional killing committed under the influence of passion or hot blood produced by adequate provocation and before a reasonable time has passed for the blood to cool. *People v Hess*, 214 Mich App 33, 38; 543 NW2d 332 (1995); *People v Fortson*, 202 Mich App 13, 19; 507 NW2d 763 (1993). An essential element of the crime of voluntary manslaughter is the intent to kill or commit serious bodily harm. *Hess, supra*.

Viewing the evidence in a light most favorable to the prosecution, we conclude that the prosecution presented sufficient evidence of an intentional killing or defendant's intent to commit serious bodily harm to Coffee. Defendant became upset with Coffee when she told him that she had been in Toledo for the weekend and hit her twenty times with a walking stick all over her body. Defendant

handcuffed Coffee to a dresser and hit her again after she broke out a window. After some time had gone by, defendant attempted to release Coffee from the handcuffs and put her into bed with him. When he awoke the next morning, she was dead.

Although defendant argues that insufficient evidence was presented to support defendant's conviction because the evidence presented by the prosecution's expert was incomplete and contradictory, when testimony is conflicting, it is for the jury to decide what weight to assess the evidence. *People v Marji*, 180 Mich App 525, 542; 447 NW2d 835 (1989). Davidson testified that the assault and the blunt force injuries contributed to Coffee's death, as well as the strangulation. Defendant testified that he struck Coffee twenty times with a walking stick. Davidson's external examination revealed marks consistent with such an instrument on Coffee's back, arms, buttocks, and legs. Although Dragovic opined that the notes were inconclusive as they related to the exact cause of Coffee's death, Davidson's report specifically indicated what he considered to be the causes of her death. A rational trier of fact could find beyond a reasonable doubt, based upon these facts, that defendant was provoked by Coffee's three day absence and immediately attacked her with the intent to kill or commit serious bodily harm upon her person.

Affirmed.

/s/ Martin D. Doctoroff

/s/ Michael J. Kelly

/s/ Robert P. Young, Jr.