

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY LEE BROWN,

Defendant-Appellant.

UNPUBLISHED

August 29, 1997

No. 186824

LC No. 95-000632

REISSUED

Before: Cavanagh, P.J., and Reilly and C.D. Corwin,* JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316; MSA 28.548, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to life in prison for the murder conviction and two years for felony-firearm. He appeals as of right. We affirm.

Defendant first claims that there was insufficient evidence of premeditation to support a conviction of first-degree premeditated murder. We disagree. Review of a challenge to the sufficiency of the evidence requires this Court to view the evidence in a light most favorable to the prosecution and determine whether the evidence was sufficient to support a conclusion by the trier of fact that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

First-degree premeditated murder requires proof that the defendant killed the victim intentionally and that the act was deliberate and premeditated. Premeditation and deliberation can be inferred from all the surrounding facts and circumstances of the incident. This includes the parties' prior relationship, the accused's actions before and after the crime, and the circumstances of the killing itself. *People v Haywood*, 209 Mich App 217, 229; 530 NW2d 497 (1995).

In the present case, taking the evidence most favorably to the prosecution, the prosecution presented evidence that defendant and his accomplices were overheard "setting up a murder." In

* Circuit judge, sitting on the Court of Appeals by assignment.

addition, after the shooting occurred defendant was heard making statements which inferred that the victim was the target and that defendant had “got” him. Finally, defendant’s statements combined with the physical evidence indicate that the victim was in full view of defendant when defendant took aim and shot him from approximately thirty feet away. From this record, taken most favorably to the prosecution, we conclude that there was sufficient evidence of premeditation to support defendant’s conviction of first-degree premeditated murder.

Next, defendant argues that the trial court abused its discretion in failing to allow defendant to cross-examine a key prosecution witness regarding a prior conviction. We disagree. The scope of cross-examination is a matter left to the trial court’s sound discretion. Exercise of that discretion will not be disturbed absent a showing of abuse. *People v Blunt*, 189 Mich App 643, 651; 473 NW2d 792 (1991). Under MRE 609, evidence of a witness’ prior conviction shall not be used to attack the witness’ credibility unless, inter alia, “the crime contained an element of dishonesty or false statement,” or “the crime contained an element of theft.” MRE 609(a).

In the present case, the witness’ prior conviction as an accessory to arson did not include an element of dishonesty, false statement, or theft. Therefore, the trial court properly excluded admission of evidence of that conviction. Further, inquiry into the witness’ parole status at the time of his cooperation with the prosecution had no relevance to the issues at trial. Hence, the lower court did not abuse its discretion in refusing to allow defendant to question the witness on that topic. See MRE 402; *People v VanderVliet*, 444 Mich 52, 60-61; 508 NW2d 114 (1993). Finally, contrary to defendant’s assertion, he was not precluded from questioning the witness regarding prior inconsistent statements concerning his immunity agreement.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Maureen Pulte Reilly
/s/ Charles D. Corwin