

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MAUNTEZ THOMPSON,

Defendant-Appellant.

UNPUBLISHED
October 21, 1997

No. 195492
Recorder's Court
LC No. 95-009362

Before: Corrigan, C.J., and Griffin and Hoekstra, JJ.

PER CURIAM.

Defendant appeals by right his jury convictions of second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), for the killing of Michael Armstrong.¹ The trial court sentenced defendant to consecutive terms of imprisonment of twenty-five to fifty years for murder and two years for felony-firearm. We affirm.

Defendant shot and killed Robert Warfield and Michael Armstrong at the home of his cousin, Sherry Thompson. Defendant heard that Armstrong had slapped Thompson. Armed with a rifle and a shotgun, he drove to Thompson's home to retrieve her, her children and his fourteen year-old cousin, Angela Thompson. However, Sherry Thompson refused to leave with defendant. Defendant gave the rifle to codefendant, who was already at the house, and drove away with Angela Thompson. Defendant later returned upon learning that Warfield had threatened him and had been alone with Angela Thompson in one of Sherry Thompson's bedrooms. By the time they arrived, Armstrong had joined Warfield at the Thompson home. Defendant and Warfield then engaged in a heated argument. Armstrong acted as a peacemaker. The argument escalated, and defendant, who by then had regained possession of the rifle, shot the victims.

Defendant first argues that the trial court denied him a fair trial by (1) commenting during voir dire about the frequency of crimes committed by young black men, and (2) commenting regarding the quality of Angela Thompson's testimony and stating that she was not at fault for the murders. Because

defendant did not object, this Court will review this issue only if relief is

necessary to avoid manifest injustice. *People v Paquette*, 214 Mich App 336, 340; 543 NW2d 342 (1995). No manifest injustice will result from our failure to review in this case because the court's comments did not deprive defendant of a fair and impartial trial. *Id.* The trial court, cognizant of the fact that defendant, codefendant, and the victims were all young black men, properly elicited information regarding the prospective jurors' prejudices during voir dire in an effort to ferret out those jurors who could not remain impartial. The court permissibly inquired about the jurors' views on age and race because those prejudices could have affected their ability to render an impartial decision in this case. *People v Sawyer*, 215 Mich App 183, 196; 545 NW2d 6 (1996). Further, the court did not exhibit partiality or lend credibility to a witness when he consoled Angela Thompson, who may have felt guilt over her role in the events leading up to the shooting. *People v Cheeks*, 216 Mich App 470, 480; 549 NW2d 584 (1996).

Defendant next argues that the trial court erred in instructing the jury regarding voluntary manslaughter because it gave an example of "inadequate" provocation which resembled the evidence adduced at trial. We disagree. Because defendant did not object, this Court will review this issue only if relief is necessary to avoid manifest injustice. *People v Hess*, 214 Mich App 33, 36; 543 NW2d 332 (1995). No manifest injustice will result from our failure to review in this case because the example did not closely parallel the circumstances surrounding the shooting and the court clearly indicated that the example was *only* an example. Compare *People v Edwards*, 206 Mich App 694, 696-697; 522 NW2d 727 (1994).

Defendant also contends that the trial court erroneously denied his motion for directed verdict regarding the first-degree murder charges because the prosecutor failed to present sufficient evidence of premeditation. We disagree. In reviewing a trial court's decision regarding a directed verdict, this Court considers the evidence presented up to the time the motion is made in the light most favorable to the prosecution to determine whether a rational trier of fact could find the essential elements of the offense proven beyond a reasonable doubt. *People v Jolly*, 442 Mich 458, 566; 502 NW2d 177 (1992). To support a conviction of first-degree murder, the prosecutor must prove that the defendant intentionally killed the victim and that the act of killing was premeditated and deliberate. *People v Schollaert*, 194 Mich App 158, 170; 486 NW2d 312 (1992). Premeditation and deliberation require that the defendant must have had sufficient opportunity for a second look at his contemplated actions. *Id.* The prosecutor may establish these elements through evidence of "(1) the prior relationship of the parties, (2) the defendant's actions before the killing, (3) the circumstances of the killing itself, and (4) the defendant's conduct after the homicide." *Id.*

In this case, a rational jury could infer from the circumstances surrounding the killing that defendant acted with premeditation and deliberation. Defendant returned to his cousin's home in order to confront Warfield. Defendant and Warfield subsequently engaged in a heated argument. Just prior to the shooting, the unarmed victims followed defendant and codefendant as they backed toward the car. Sherry Thompson's roommate stood between the men in an attempt to separate them. Defendant ordered the roommate to move. She fled, and moments later, heard gunshots. A rational jury could find from this evidence that defendant acted with premeditation and deliberation because he had

sufficient opportunity for a second look at his contemplated actions before shooting the victims. *Id.* Accordingly, the trial court properly denied defendant's motion for directed verdict.

Affirmed.

/s/ Maura D. Corrigan
/s/ Richard Allen Griffin
/s/ Joel P. Hoekstra

¹ The prosecutor charged defendant and his brother, Arthur Thompson, with two counts of first-degree murder, MCL 750.316; MSA 28.548, and two counts of felony firearm stemming from the shooting of Robert Warfield and Michael Armstrong. The jury convicted defendant of killing Armstrong and acquitted him of killing Warfield. The jury acquitted codefendant.