

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WESTON EDWARD LINK,

Defendant-Appellant.

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UNPUBLISHED

January 30, 1998

No. 197563

Kalamazoo Circuit

LC No. 96-000149-FC

Before: Gribbs, P.J., and Murphy and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial convictions for first-degree 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 his first-degree murder conviction and two years in prison for his felony-firearm conviction. The felony-firearm conviction was to precede and run consecutively to the first-degree murder conviction. We affirm.

Defendant's first issue on appeal is that the prosecution failed to present sufficient evidence from which the jury could convict him of first-degree murder. We disagree. This Court reviews the sufficiency of evidence by examining it in the light most favorable to the prosecutor in order to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979). As to a trial court's denial of a motion for directed verdict, we review the evidence presented up to the time the motion was made. *People v Peebles*, 216 Mich App 661, 664; 550 NW2d 589 (1996).

To convict a defendant of first-degree murder, the prosecution is required to prove that the defendant intentionally killed the victim and that the act of killing was premeditated and deliberate. *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995).

Premeditation and deliberation require sufficient time to allow the defendant to take a second look. The elements of premeditation and deliberation may be inferred from the circumstances surrounding the killing. Premeditation may be established through evidence of the following factors: (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 the case at bar, a rational trier of fact could infer from (i) the four gunshot wounds, of which two were sustained to the victim's chest area or upper abdomen and one was inflicted as the victim's back was exposed to defendant, and (ii) the repeated clubbing of the victim, after the shooting and while the victim was lying on the ground, that defendant possessed the intent to kill the victim. Further, our review of the record reveals that defendant exhibited displeasure with finding the victim in the home of his ex-girlfriend, with whom defendant wanted to renew their relationship. After assaulting the victim verbally and through his conduct (i.e., pointing a gun at the victim's head), defendant enjoyed sufficient time to take a second look. However, defendant, driving his car, instead followed the victim's car and purposefully caused a collision with the victim's car at a gas station. After the shooting, defendant was not seen giving any assistance to the victim. Defendant also did not seem bothered and appeared calm. He stated to the police, "I don't deny shooting the asshole." From this, a rational trier of fact could reasonably infer that defendant's actions had been premeditated and deliberate. Thus, we hold that the prosecution presented sufficient evidence to support defendant's conviction for first-degree murder.

Defendant's final issue on appeal is that the trial court erred in allowing the admission of a bayonet found inside defendant's car and accessible from the driver seat. We disagree. "This Court reviews a trial court's admission of evidence under the abuse of discretion standard." *People v Sawyer*, 222 Mich App 1, 5; 564 NW2d 62 (1997).

Defendant, in his opening statement, placed in issue his self-defense claim. Evidence of the bayonet was relevant in negating defendant's self-defense claim in that it was material and probative of whether defendant honestly and reasonably believed that his life was in imminent danger or that there was a threat of serious bodily harm. *People v Kemp*, 202 Mich 318, 322; 508 NW2d 184 (1993). Evidence of the bayonet could lead the trier of fact to believe that, in view of the nature of the clubbing of defendant by the victim, the appropriate responsive force involved using the readily accessible bayonet rather than the handgun. *Id.* ("[a] defendant is not entitled to use any more force than is necessary to defend himself"). Therefore, this evidence was probative because it had a tendency to make defendant's self-defense claim less probable. *People v Mills*, 450 Mich 61, 66-67; 537 NW2d 909 (1995). Although a trial court may exclude relevant evidence if its probative value is substantially outweighed by the danger of unfair prejudice, *id.* at 75; MRE 403, we find that in light of the circumstances of this case, the trial court did not abuse its discretion in admitting the evidence of the bayonet.

Affirmed.

/s/ Roman S. Gribbs  
/s/ William B. Murphy  
/s/ Hilda R. Gage