STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

REMEGIO P. CORILLA,

Defendant-Appellant.

UNPUBLISHED
July 31, 1998

No. 199972
Ottawa Circuit Court
LC No. 95-019314-FH

Before: Bandstra, P.J., and Griffin and Young, Jr., JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial conviction of voluntary manslaughter, MCL 750.321; MSA 28.553. The trial court sentenced defendant to five to fifteen years' imprisonment. We affirm.

Defendant first argues that the prosecution's evidence was insufficient to convict him of voluntary manslaughter. We disagree. When determining whether sufficient evidence has been presented to sustain a conviction, a 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, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). The elements of a crime may be proven by circumstantial evidence and the inferences drawn from that evidence. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

Voluntary manslaughter in Michigan is common-law, or second-degree, murder committed in the heat of passion, produced by adequate and reasonable provocation. See *People v Van Wyck*, 402 Mich 266, 269; 262 NW2d 638 (1978). Conviction of voluntary manslaughter requires that a defendant be found to have had an intent to kill or an intent to do serious bodily harm to the deceased. *People v Townes*, 391 Mich 578, 589; 218 NW2d 136 (1974). The intent to kill may be implied where the natural tendency of the defendant's behavior is to cause death or great bodily harm. *People v Morin*, 31 Mich App 301, 311; 187 NW2d 434 (1971). Contrary to defendant's assertion, the

prosecution is *not* required to prove the *lack* of provocation. *People v King*, 98 Mich App 146, 150; 296 NW2d 211 (1980).

In the instant case, there was substantial testimony from the prosecution's expert witnesses that one and one-half-year-old Jordan Corilla's injuries, a large subdural hematoma and retinal hemorrhaging, could not have been caused in the manner claimed by defendant and his wife. According to those experts, Jordan's injuries were consistent with and most likely caused by violent shaking, possibly combined with a severe blow to the head. In addition, the jury could reasonably have inferred from the testimony that Jordan's injuries were caused sometime between 6:15 p.m., when defendant's wife left Jordan alone with defendant, and 6:50 p.m., when defendant called 911. Viewed in a light most favorable to the prosecution, the evidence presented at trial was sufficient for the jury to conclude that it was defendant who inflicted Jordan's injuries through violent shaking and, at the very least, that the natural tendency of defendant's actions was to cause death or great bodily harm.

Defendant next argues that his sentence is disproportionate. However, because defendant's five-year minimum sentence is within the guidelines, it is presumed to be proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Moreover, defendant has failed to cite any unusual circumstances that would overcome that presumption. *Id*. Finally, defendant argues that the trial court erred in failing to articulate its reasoning for the sentence imposed. We disagree. Immediately before defendant's sentencing, defense counsel acknowledged that the trial court would "have to impose a punishment within the guidelines" and requested that defendant be sentenced at "the low end of the guidelines." We conclude that, as in *People v Lawson*, 195 Mich App 76, 78; 489 NW2d 147 (1992), the articulation requirement was satisfied because counsel's remarks "reflect an unambiguous understanding that the guidelines would be the basis of the sentence."

Affirmed.

/s/ Richard A. Bandstra
/s/ Richard Allen Griffin
/s/ Robert P. Young, Jr.