

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSHUA JOSEPH OWENS,

Defendant-Appellant.

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UNPUBLISHED

March 31, 2000

No. 211133

Lapeer Circuit Court

LC No. 97-006224-FC

Before: Smolenski, P.J., and Whitbeck and Zahra, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316(1)(a); MSA 28.548(1)(a).<sup>1</sup> He was sentenced to life without parole. Defendant appeals as of right. We affirm.

Defendant contends that the trial court erred in denying his motion for directed verdict, brought on the ground that the evidence presented at trial, when viewed in a light most favorable to the prosecution, did not establish that the victim's murder was premeditated and deliberate. We disagree. When ruling on a motion for a directed verdict, the trial court must consider the evidence presented by the prosecutor up to the time the motion was made in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the charged crime were proven beyond a reasonable doubt. *People v Daniels*, 192 Mich App 658, 665; 482 NW2d 176 (1991). When reviewing a ruling on a motion for directed verdict, we test the validity of the motion by the same standard as the trial court. *Id.*

This Court recently summarized the elements of premeditated murder in *People v Abraham*, 234 Mich App 640, 656; 599 NW2d 736 (1999):

First-degree premeditated murder requires proof 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 sufficient time to allow the defendant to take a second look." *Id.* Premeditation and deliberation may be established by 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.*

Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of the crime. *People v Plummer*, 229 Mich App 293, 299; 581 NW2d 753 (1998). Defensive wounds suffered by a victim and evidence that a defendant removed the victim to a more secluded area before committing the crime, *People v Johnson*, 460 Mich 720, 733; 597 NW2d 73 (1999), as well as evidence that a deadly weapon “not of the ‘impromptu’ variety” was used in the killing, *People v Livingston*, 63 Mich App 129, 134; 234 NW2d 176 (1975), are further indications of premeditation and deliberation.

The evidence in the present case sufficiently established that the victim's murder was premeditated and deliberate. The medical examiner provided evidence that the victim either crawled or was dragged away from defendant's car after being stabbed multiple times. Evidence showed that four to five minutes or more passed before defendant turned the victim over onto her back and inflicted the fatal chest wound. A pause between the initial homicidal intent and the ultimate act of killing the victim may be sufficient to establish premeditation and deliberation. *Plummer, supra* at 301. Here, we conclude that this four to five minute period of time would have permitted a reasonable person to take a second look at what had and was occurring and come to a deliberate decision. The significant pause between defendant's initial homicidal intent, reasonably inferred by his repeated stabbing of the victim and the ultimate act of turning her over and stabbing her through the heart sufficiently demonstrated defendant's premeditation and deliberation.

In addition, a rational trier of fact could have reasonably inferred from the circumstantial evidence presented by the prosecution at trial that defendant premeditated and deliberated killing the victim. Defendant and the victim knew each other. On the day of the murder, defendant called the victim's house twice in attempts to contact her. Defendant brought his sister's black negligee and the murder weapon with him when he picked up the victim, and then took her to a secluded area. In addition, the medical examiner found multiple scrapes, abrasions, bruises and cuts on the victim's body that he classified as defensive wounds. Furthermore, the record demonstrates that defendant tried to cover up the murder by concealing the victim's body under brush and vines, telling the victim's parents and the police that he dropped the victim off in Flint, hiding the knife under the seat of his car, placing his bloody jeans in a plastic bag in his bedroom and trying to convince his mother and the police that scratches on his neck and hands were the result of helping a friend replace a transmission.

Affirmed.

/s/ Michael R. Smolenski  
/s/ William C. Whitbeck  
/s/ Brian K. Zahra

<sup>1</sup> Defendant was also convicted of felony murder, MCL 750.316(1)(b); MSA 28.548(1)(b), kidnapping, MCL 750.349; MSA 28.581, and attempted first-degree criminal sexual conduct (CSC I),

MCL 750.520b(1)(e); MSA 28.788(2)(1)(e). Defendant's appeal only pertains to his first-degree murder conviction.