

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CAROL LYNN GILES,

Defendant-Appellant.

UNPUBLISHED

July 10, 2001

No. 215421

Oakland Circuit Court

LC No. 98-157226-FC

Before: Bandstra, C.J., and White and Collins, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316, and sentenced to life imprisonment. She appeals as of right. We affirm.

Defendant was tried jointly with Terry Collier, before separate juries, for the November 1997 murder of Nancy Billiter. The evidence at trial showed that Billiter sustained several types of injuries at the hands of both defendant and Collier. She was beaten, injected with acid and bleach substances, and smothered, before her body was disposed of in a park. The medical examiner opined that the cause of death was "asphyxia due to oxygen deprivation brought about by aspiration of blood into the upper and lower airways resulting from blunt force trauma of the face and nose and blockage of the upper airways by gagging." After the body was discovered, defendant admitted to the police that she was a willing participant in the killing.

On appeal, defendant challenges the trial court's decision to admit a photograph of the victim depicting several injuries to her face and abdomen. Defendant argues that the photograph was not relevant because the depicted injuries were not the cause of death. At trial, however, defendant objected to the photograph only as being more prejudicial than probative. She did not object on grounds of relevancy. Because an objection on one ground is insufficient to preserve an appellate attack on another ground, this issue is not preserved. *People v Asevedo*, 217 Mich App 393, 398; 551 NW2d 478 (1996). Accordingly, appellate relief is precluded absent a showing of plain error affecting substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

An intent to kill may be inferred from all facts and circumstances. *People v Lugo*, 214 Mich App 699, 709-710; 542 NW2d 921 (1995). Giving due consideration to the admissibility of photographic evidence to corroborate witness testimony and the admissibility of evidence

depicting the nature of a victim's injuries for the purpose of showing an intent to kill, it is not plainly apparent that the subject photograph lacked relevancy. MRE 401; see *People v Mills*, 450 Mich 61, 71, 76; 537 NW2d 909 (1995), modified on other grounds 450 Mich 1212 (1995). Furthermore, the trial court did not abuse its discretion in determining that the probative value of the photograph was not substantially outweighed by the danger of unfair prejudice. MRE 403; *Mills, supra* at 76. In any event, we are satisfied that given the remaining evidence of guilt, the admission of the photograph, even if error, did not affect the outcome of the proceedings.

Defendant next argues that the trial court abused its discretion when it denied her request to dismiss for cause a juror who admittedly read newspaper articles about the case. We disagree. Although the juror was initially uncertain whether he could render a fair and just verdict, upon further questioning by the trial court, the juror indicated that he had no opinion about defendant's guilt and knew of no reason why he could not be fair and impartial. Giving due deference to the trial court's superior opportunity to assess this prospective juror's demeanor and credibility, we conclude that it did not abuse its discretion by rejecting defendant's challenge for cause. MCR 6.412(D)(1); MCR 2.511(D)(4); *People v Williams*, 241 Mich App 519, 521-522; 616 NW2d 710 (2000).

Because we conclude that the trial court did not err in rejecting defendant's challenge for cause, we find it unnecessary to address the question whether a subsequent juror, who identified himself as a "career prosecutor," would be "objectionable" under the four-part test set forth in *People v Lee*, 212 Mich App 228, 248-249; 537 NW2d 233 (1995). To the extent that defendant argues that the trial court should have excused this juror for cause solely because he was a "career prosecutor," we find no abuse of discretion. *Williams, supra*; see also *People v Walker*, 162 Mich App 60, 64-66; 412 NW2d 244 (1987) (mere fact that a prospective juror was a police officer did not warrant an inference of bias, but such an inference could be drawn from his relationship with the prosecuting attorney and certain witnesses).

Affirmed.

/s/ Richard A. Bandstra
/s/ Helene N. White
/s/ Jeffrey G. Collins