

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL ANTHONY RILEY,

Defendant-Appellant.

UNPUBLISHED

October 2, 2001

No. 226734

Wayne Circuit Court

LC No. 99-001903

Before: Cavanagh, P.J. and Markey and Cooper, JJ.

PER CURIAM.

Defendant appeals as of right from his convictions of two counts of first-degree premeditated murder, MCL 750.316, entered after a jury trial. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with two counts of first-degree premeditated murder, one count of assault with intent to murder, MCL 750.83, and one count of possession of a firearm during the commission of a felony, MCL 750.227b, arising from the shooting deaths of Karim Yarborough and Kenyatta Martin, and the shooting of Philephe McClellan. At trial, McClellan testified that he shared a house with Yarborough and defendant, and that Martin, Yarborough's girlfriend, was a frequent guest. On the evening before the shootings, defendant arrived home wearing a bullet-proof vest. McClellan testified that during the early morning hours of February 5, 1999, he was awakened when he was hit by two gun shots. McClellan stated that he could not see the face of the shooter, but noticed that the person was wearing a bullet-proof vest. Several witnesses, including Bobby McPherson (defendant's mother), Gregory Riley and Nicole Drain (defendant's cousins), and Eric Smith (defendant's longtime friend), testified that on February 5, 1999, defendant made statements to the effect that he did "something bad," or that he actually committed the shootings. Smith stated that defendant admitted that he had a bullet-proof vest and that he killed Yarborough and Martin and wounded McClellan. Smith further testified that during a conversation that occurred prior to February 5, 1999, defendant stated that he planned to kill Yarborough because Yarborough was cheating him out of money.

The jury found defendant guilty as charged. On appeal, defendant challenges only his convictions of first-degree premeditated murder.

In reviewing a sufficiency of the evidence question, we view the evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could conclude that the elements of the offense were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), mod 441 Mich 1201. We will not interfere with the jury's role of determining the weight of the evidence or the credibility of witnesses. *Wolfe, supra* at 514-515; *People v Warren*, 228 Mich App 336, 343; 578 NW2d 692 (1998), mod 462 Mich 415; 615 NW2d 691 (2000). A trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In order to convict a defendant of first-degree murder, "the prosecution 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 sufficient time for the defendant to take a second look at his actions. *Id.* However, "the elements of premeditation and deliberation may be inferred from the circumstances surrounding the killing." *Id.* "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 actions after the homicide." *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995).

Defendant argues that the evidence was insufficient to support his convictions of first-degree murder because the evidence did not demonstrate premeditation and deliberation. We disagree. The jury was entitled to believe the testimony that defendant made statements incriminating himself in the killings. *Warren, supra* at 343. Evidence supported an inference that defendant premeditated the killings. Defendant knew both Yarborough and Martin. Smith's testimony established that defendant believed that Yarborough was cheating him out of money and that defendant planned to take revenge by killing Yarborough. McClellan's testimony, that on the evening before the shootings defendant arrived home wearing a bullet-proof vest, coupled with the evidence that guns were stored in the residence, supported an inference that defendant anticipated an exchange of gun fire. Yarborough and Martin were each shot in the head as they slept. Under such circumstances, a shooter would have the opportunity to take a second look at his actions. Moreover, defendant admitted to several persons that he killed Yarborough and Martin. The evidence supported an inference that defendant acted with premeditation and deliberately carried out the killings. *Schollaert, supra; Anderson, supra*. Viewed in a light most favorable to the prosecution, the evidence supported defendant's convictions of first-degree premeditated murder. *Wolfe, supra*.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Jane E. Markey
/s/ Jessica R. Cooper