

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CURTIS DARNELL MCGOUGHY,

Defendant-Appellant.

UNPUBLISHED
February 24, 2004

No. 245179
Jackson Circuit Court
LC No. 02-001780-FC

Before: Hoekstra, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right from his jury conviction of first-degree premeditated murder, MCL 750.316(1)(a); and assault with intent to murder, MCL 750.83. Defendant was sentenced as a third habitual offender, MCL 769.11 to a term of life imprisonment without parole for the first-degree premeditated murder conviction and a term of 427 to 854 months' imprisonment for the assault with intent to commit murder conviction. We affirm.

Defendant's conviction arises from the brutal murder of the twenty-three year old victim, Tamara Gant, and from the attempted murder of her six year old son. The only issue defendant raises on appeal is a claim that there was insufficient evidence to support his first-degree premeditated murder conviction. We disagree.

"The test for determining the sufficiency of evidence in a criminal case is whether the evidence, viewed in a light most favorable to the people, would warrant a reasonable juror in finding guilt beyond a reasonable doubt." *People v Nowack*, 462 Mich 392, 399; 614 NW2d 78 (2000). We view the evidence in a light most favorable to the prosecution to determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* at 399-400.

As our Supreme Court recently explained

To show first-degree premeditated murder, "[s]ome time span between [the] initial homicidal intent and ultimate action is necessary to establish premeditation and deliberation." The interval between the initial thought and ultimate action should be long enough to afford a reasonable person time to take a "second look." . . . Moreover, a defendant's attempt to conceal the killing can be

used as evidence of premeditation. [*People v Gonzalez*, 468 Mich 636, 641; 664 NW2d 159 (2003)(quotations omitted).]

The evidence and testimony established that defendant unsuccessfully attempted to steal the car of his friend, Patricia Oliver, when she refused to allow him to borrow it. Shortly afterward, he forced his way into the victim's house by using a foot-long butcher knife to cut the screens of at least four different windows until he succeeded to enter the house by cutting through the screen door to the kitchen. He then went to the victim's bedroom, where he proceeded to stab the victim fifty-two times. The evidence established that it "took time" to inflict the stab wounds. The stab wounds included eighteen stab wounds to the right side of the neck, four stab wounds around the right eye, two stab wounds into the right eye, eight stab wounds to the left shoulder, and five stab wounds to the chest, one fatal. At some point during the stabbing, the victim's six-year old son woke up and entered the bedroom where he saw defendant stabbing his mother on her head and back. The victim told her son to call 911. The boy called 911 and the Central Dispatch recorded about three minutes of the screaming. However, the boy believed that the police took too long to arrive, so he hung up. He returned to the bedroom, where he told defendant to stop hurting his mother. The victim pleaded with defendant twenty times to allow her to "say goodbye to my son." Defendant repeatedly told the victim to "shut up." Once the victim died, defendant turned to the victim's son and stabbed him eleven times, nearly killing him.

Following the stabbings, defendant went to the house of another friend, Solanda Oliver, where he changed his bloody clothes and disposed of them in a dumpster. Meanwhile, because the victim's son knew defendant as a friend of his mother's, he gave the police defendant's name. Later that day, the police located defendant walking on Interstate-94, only sixteen miles short of the Indiana state line. Upon being arrested, defendant stated that he "had almost made it." He first denied involvement in the crime day but later changed his story and provided conflicting versions of the crime. He also informed the police that he tried to throw the knife onto the roof of a school but the knife hit and broke a window on the second story of the school. He then successfully threw the knife onto the roof. The police located the knife and the broken window. Viewing the evidence in a light most favorable to the prosecutor, we conclude there was sufficient evidence for the jury to convict defendant of first-degree premeditated murder. The evidence established a time span between the intent and the murder, with ample time for defendant to take a second look. Accordingly, this conviction is affirmed.

Affirmed.

/s/ Joel P. Hoekstra
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot