

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARNELL DANLEY,

Defendant-Appellant.

UNPUBLISHED

June 10, 2004

No. 248423

Saginaw Circuit Court

LC No. 02-022024-FC

Before: Hoekstra, P.J., and O’Connell and Donofrio, JJ.

PER CURIAM.

Defendant was convicted by a jury of first-degree premeditated murder, MCL 750.316(1)(a), and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced him to life imprisonment for the murder conviction and two years’ for the felony firearm conviction, to be served consecutively to the life sentence. Defendant only appeals the first degree murder conviction on the basis of sufficiency of the evidence. Because a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt, we affirm.

Defendant argues that the prosecution presented insufficient evidence regarding premeditation and deliberation to support his first-degree murder conviction. We disagree. We review claims of insufficient evidence de novo. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). In reviewing the sufficiency of the evidence, we must view the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Johnson*, 460 Mich 720, 722-723; 597 NW2d 73 (1999).

“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 Kelly*, 231 Mich App 627, 642; 588 NW2d 480 (1998). Premeditation and deliberation may be proven by (1) the previous relationship between the defendant and victim, (2) the defendant’s actions before and after the killing, and (3) the particular circumstances of the killing. *People v Plummer*, 229 Mich App 293, 300; 581 NW2d 753 (1998).

The previous relationship between defendant and the victim, defendant’s actions before the killing, as well as the circumstances of the killing itself support an inference of premeditation and deliberation. The evidence establishes that defendant and the victim had been arguing since

the night before the shooting. Defendant retrieved his pistol from his bedroom closet prior to the supposed attack by the victim. He fired his first shot while in the living room, missing the victim and striking the wall in the kitchen. He then fired the shot that killed the victim while in the garage. The evidence showed that defendant would have had to walk from the family room, through the kitchen and breezeway and into the garage to fire this shot. This allowed defendant to take a “second look” before firing the fatal shot. While defendant claims that he struggled with the victim and the gun accidentally went off, there was no evidence of a struggle, or evidence that the gun went off while defendant was struggling with the victim.

This Court must “draw all reasonable inferences and make credibility choices in support of the jury verdict.” *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Viewing the evidence in a light most favorable to the prosecution, we conclude that there was sufficient evidence for the jury to convict defendant of first-degree premeditated murder.

Affirmed.

/s/ Joel P. Hoekstra
/s/ Peter D. O’Connell
/s/ Pat M. Donofrio