

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES WILLIAM AUSSICKER,

Defendant-Appellant.

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UNPUBLISHED

June 29, 2004

No. 245058

Macomb Circuit Court

LC No. 02-000282-FH

Before: Owens, P.J., and Kelly and Gribbs,\*

MEMORANDUM.

Defendant appeals as of right from his conviction of felony murder, MCL 750.316(1)(b), following a jury trial. We affirm.

On appeal, defendant challenges the sufficiency of the evidence. In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court “must view the evidence in a light most favorable to the prosecution and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). “The standard of review is deferential: a reviewing court is required to 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).

The evidence was sufficient to support the conviction. Viewed in a light most favorable to the prosecution, the evidence established that defendant was the last person to be seen with the decedent. A reasonable juror could conclude that the attack took place between the short time that defendant was left alone with the decedent, and the time the decedent failed to answer his wife’s phone call. A wrench found in defendant’s truck was identified as consistent with the tool used to break into the decedent’s strong box, and defendant was seen shortly after the attack with a large number of quarters, coinciding with the quarters missing from the decedent’s house. Finally, defendant gave inconsistent statements to the police, first denying any knowledge of or contact with the decedent, then gradually admitting that he knew the decedent, that he was at the decedent’s house, and that he touched the strongbox while in the house. A rational finder of fact

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\* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

could conclude that the elements of felony murder were proven beyond a reasonable doubt.  
*Wolfe, supra.*

Affirmed.

/s/ Donald S. Owens  
/s/ Kirsten Frank Kelly  
/s/ Roman S. Gibbs