

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRIAN JAMES DABNEY,

Defendant-Appellant.

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UNPUBLISHED

December 18, 2007

No. 272245

Wayne Circuit Court

LC No. 06-003129

Before: Jansen, P.J., and O’Connell and Fort Hood, JJ.

PER CURIAM.

Defendant was convicted of two counts of first-degree murder, MCL 750.316, assault with intent to murder, MCL 750.83, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant to life in prison without parole for each first-degree murder conviction, 23 years, 9 months to 45 years in prison for the assault with intent to murder conviction, and two years in prison for the felony-firearm conviction. Defendant appeals as of right. We affirm.

This case arose after defendant and another unidentified man entered a drug house. There, the men murdered two victims in a back room. They killed one man with a single gunshot to the back of the head and another with several shots in the back. Complainant was in a bedroom at the front of the house at the time and went to investigate the noise. After defendant successfully explained the noise away as firecrackers, the complainant returned to his room. Defendant entered the front bedroom and shot the complainant in the back of the head several times. The complainant recalled seeing his own blood hit the wall before he lost consciousness. He regained consciousness long enough to hear defendant instructing the other man to break out a window, take complainant’s shoes and pants, and beat a hasty retreat. After a long period passed, complainant remarkably revived and managed to call for help. He later identified defendant as the shooter. Police tests found that defendant’s hands and face were covered in gunshot residue, and that the fired bullets found in the front bedroom were fired from a handgun that defendant had arranged for a friend to hide.

Defendant argues on appeal that the trial court erred when it failed to instruct the jury about addict-informer testimony and the need to find that defendant specifically intended to murder the complainant and the other victims. We disagree. These issues were waived in the trial court when defendant’s attorney affirmatively approved the jury instructions. *People v Carter*, 462 Mich 206, 214-216; 612 NW2d 144 (2000). In this case, the jury instructions were

read, and defendant made only one objection about the instruction for assault with intent to do great bodily harm less than murder—an instruction that is not challenged in this appeal. The trial court then asked, “Is there anything else for the record?” Defendant’s attorney responded, “No, Your Honor.” Because defense counsel affirmatively approved the jury instructions as given, any issues regarding instructions’ imperfections were waived, and any error was extinguished. *Id.* at 215.

Affirmed.

/s/ Kathleen Jansen  
/s/ Peter D. O’Connell  
/s/ Karen M. Fort Hood