

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JONTAE DAWON SINGLETON,

Defendant-Appellant.

UNPUBLISHED

February 14, 2008

No. 275689

Wayne Circuit Court

LC No. 06-008367-01

Before: Talbot, P.J., and Cavanagh and Zahra, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of second-degree murder, MCL 750.317, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to 17 to 30 years in prison for the second-degree murder conviction and two years in prison for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant argues that the prosecution has not proven its case beyond a reasonable doubt because it did not show defendant possessed the requisite intent sufficient for a second-degree murder conviction. We disagree.

This Court reviews challenges to the sufficiency of the evidence de novo. *People v Osantowski*, 274 Mich App 593, 613-614; 736 NW2d 289 (2007). In reviewing the sufficiency of the evidence in a criminal case, this Court must review the evidence in the light most favorable to the prosecutor and determine whether a rational trier of fact could have found that the essential elements of the crime were proved beyond a reasonable doubt. *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001).

In Michigan, the elements of second-degree murder are a death, caused by an act of the defendant, with malice, and without justification or excuse. *People v Smith*, 478 Mich 64, 70; 731 NW2d 411 (2007). Malice is the intent to kill, the intent to cause great bodily harm, or the intent to do an act in wanton and willful disregard of the likelihood that the natural tendency of such behavior is to cause death or great bodily harm. *People v Goecke*, 457 Mich 442, 464; 579 NW2d 868 (1998). Here, defendant left his apartment, approached the woman, and repeatedly pointed his gun at the woman's face. When the woman slapped the gun away, defendant continued to point the gun at the woman. Eventually, defendant fired the gun twice, killing the woman. Even though defendant claims the first discharge of the gun was an accident as a result

of the woman slapping his hand, defendant has no explanation for shooting the woman a second time. Therefore, by repeatedly threatening and shooting her, defendant possessed the intent to do great bodily harm or the intent to act in a wanton and willful disregard and the natural tendency of his actions was to cause death or great bodily harm.

The provocation necessary to “mitigate a homicide from murder to manslaughter is that which causes the defendant to act out of passion rather than reason.” *People v Pouncey*, 437 Mich 382, 389; 471 NW2d 346 (1991). Here, defendant and the woman were having sexual intercourse when the woman defecated in defendant’s bed. After asking the woman to leave, defendant followed her down to the street and shot her. This demonstrates defendant acted out of reason rather than passion. Therefore, the prosecution presented sufficient evidence of the essential elements of the crime beyond a reasonable doubt, and defendant’s conviction of second-degree murder was proper.

Affirmed.

/s/ Michael J. Talbot
/s/ Mark J. Cavanagh
/s/ Brian K. Zahra