

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
October 18, 2016

v

EZEKIEL RAMON REDUS,

Defendant-Appellant.

No. 328133
Wayne Circuit Court
LC No. 14-007034-01-FC

Before: SAAD, P.J., and JANSEN and M. J. KELLY, JJ.

PER CURIAM.

A jury convicted defendant of two counts of first-degree, premeditated murder, MCL 750.316(1)(a), and one count of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant was sentenced to life imprisonment without parole for his murder convictions and two years' imprisonment for his felony-firearm conviction. Defendant appeals, and we affirm.

On the night of April 4, 2014, Joan Rushin drove defendant and Matthew Cogborn from Canton, Ohio to Detroit, Michigan. Defendant and Cogborn would periodically purchase cocaine in Detroit and drive to Canton to sell it. When they arrived in Detroit in the early morning hours of April 5, 2014, Rushin dropped defendant and Cogborn off at Cogborn's apartment, which was located at 4535 Cadieux, before driving back to Canton. When she arrived back in Canton, Rushin called and texted Cogborn to let him know she was home but received no response.

Over the next two days, Rushin unsuccessfully attempted to reach Cogborn. Concerned, Rushin contacted Dejuan Kennedy, another friend who lived in Canton. Rushin and Kennedy drove back to Detroit on the night of April 6, 2014. When they arrived at 4535 Cadieux, Kennedy got out of the car and knocked on the front door. After no one answered, Rushin and Kennedy drove to several other homes, but were still unable to locate Cogborn. They returned to 4535 Cadieux where Kennedy eventually broke down the front door. As he entered the bathroom, Kennedy observed Cogborn on the bathroom floor, dead from a gunshot wound to the head. Kennedy walked back outside and told Rushin what he had seen. Rushin and Kennedy entered the apartment together and discovered Tiara Thompson, Cogborn's girlfriend, dead in the bedroom of the apartment. Thompson had been stabbed multiple times in her head and neck and strangled by a belt before being shot in the head.

Hosea Palmore, defendant's brother, testified that he received several telephone calls from defendant in the early morning hours of April 5, 2014, where he asked to be picked up from 4535 Cadieux. Stan Brue, a special agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, testified that defendant's cellular telephone was in the area of 4535 Cadieux in the early morning hours of April 5, 2014.

After Palmore picked up defendant, he drove him to a home at 7298 Greenview in Detroit. Defendant got out of Palmore's car and entered another car parked in front of the home. Shadeja Juners, defendant's girlfriend, was in the parked car. Defendant told Juners that something had come over him and that he had "killed them both." Juners observed defendant drop an item into the sewer, which she believed to be a gun. A later search of the sewer by police uncovered a .357 revolver. Defendant also subsequently confessed to Palmore that he committed the killings.

I. PHOTOGRAPHIC EVIDENCE

Defendant argues that the trial court erred when it admitted photographs of the victims at the crime scene and during their autopsies. We disagree. "A decision whether to admit photographs is within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion." *People v Gayheart*, 285 Mich App 202, 227; 776 NW2d 330 (2009).

MRE 402 states that "[a]ll relevant evidence is admissible." MRE 401 defines relevant evidence as "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence." However, relevant evidence "may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice." MRE 403. "Unfair prejudice exists when there is a tendency that evidence with little probative value will be given too much weight by the jury. Unfair prejudice may arise where considerations extraneous to the merits of the case, such as jury bias, sympathy, anger, or shock, are injected." *People v Danto*, 294 Mich App 596, 600; 822 NW2d 600 (2011) (quotation marks and citation omitted).

"Photographic evidence is generally admissible as long as it is relevant . . . and not unduly prejudicial." *Gayheart*, 285 Mich App at 227. In regard to photographs of murder victims, this Court has held that "[g]ruesomeness alone need not cause exclusion." *Id.* (quotation marks and citation omitted). "[I]f photographs are otherwise admissible for a proper purpose, they are not rendered inadmissible merely because they bring vividly to the jurors the details of a gruesome or shocking accident or crime, even though they may tend to arouse the passion or prejudice of the jurors." *People v Mills*, 450 Mich 61, 77; 537 NW2d 909, mod 450 Mich 1212 (1995) (quotation marks and citation omitted).

Defendant claims that the photographs of Cogborn and Thompson at the crime scene and during their autopsies were not relevant to any material fact in dispute. Defendant notes that he did not contest whether the murders were premeditated, but only argued that he was not the perpetrator. This Court has rejected this identical argument. In rejecting a challenge to the admission of photographs of murder victims, the Court held that "the prosecution is required to prove each element of a charged offense regardless of whether the defendant specifically

disputes or offers to stipulate any of the elements.” *People v Mesik (On Reconsideration)*, 285 Mich App 535, 544; 775 NW2d 857 (2009). Therefore, the prosecution was still required to prove premeditation regardless of the fact that defendant did not dispute that element at trial.

The number of wounds to the victims, especially Thompson, was probative of premeditation. Testimony at trial indicated that Thompson suffered multiple stab wounds to her face and neck and was strangled by a belt before being shot in the head. The photographs provided further evidence of defendant’s premeditation. This Court has held that photographs are “helpful in proving defendant’s intent to kill because they [illustrate] the nature and extent of the victim’s injuries.” *Gayheart*, 285 Mich App at 227. Furthermore, “[p]hotographs may properly be used to corroborate other evidence and are not excludable simply because they are cumulative of a witness’s oral testimony. The jury is not required to depend solely on the testimony of experts, but is entitled to view the severity and vastness of the injuries for itself.” *Id.* (citation omitted). As a result, the trial court did not abuse its discretion when it admitted these photographs.

II. SUFFICIENCY OF THE EVIDENCE

In a Standard 4 brief, defendant argues that there was insufficient evidence to support his first-degree, premeditated murder convictions. We disagree. When reviewing a claim of insufficient evidence, this Court reviews the record de novo. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). This Court views the evidence in the light most favorable to the prosecutor and determines 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, 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 Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995). “Some timespan between [the] initial homicidal intent and ultimate action is necessary to establish premeditation and deliberation.” *People v Tilley*, 405 Mich 38, 45; 273 NW2d 471 (1979) (quotation marks and citation omitted). “The interval between the initial thought and ultimate action should be long enough to afford a reasonable person time to take a ‘second look.’” *People v Gonzalez*, 468 Mich 636, 641; 664 NW2d 159 (2003). “Premeditation may be established through evidence of the following factors: (1) the prior relationship of the parties; (2) the defendant’s actions before the killing; (3) the circumstances of the killing itself; and (4) the defendant’s conduct after the homicide.” *Anderson*, 209 Mich App at 537. Further, “[m]anual strangulation can be used as evidence that a defendant had an opportunity to take a ‘second look.’” *Gonzalez*, 468 Mich at 641, citing *Johnson*, 460 Mich at 733.

Rushin testified that she dropped defendant and Cogborn at 4535 Cadieux in the early morning hours of April 5, 2014. After Rushin arrived back in Canton, she unsuccessfully attempted to call Cogborn several times. Brue’s testimony established that the last active use of Cogborn’s cellular phone was at 12:45 a.m. on April 5, 2014. Around this time, defendant made several telephone calls to Palmore to come pick him up from 4535 Cadieux. Brue’s testimony established that these telephone calls were made in the area around 4535 Cadieux. When Palmore later picked up defendant from 4535 Cadieux, he drove him to 7298 Greenview to meet

up with Juners. Juners testified that defendant confessed to her that something had come over him and that he had “killed them both.” On July 26, 2014, Palmore asked defendant what happened the night he picked him up from 4535 Cadieux. Defendant responded that “it was either him or me.”

All of the above constitutes compelling direct and circumstantial evidence that defendant intentionally killed Cogborn and Thompson. However, defendant contends that the testimony of Juners and Palmore demonstrates that the element of premeditation was not met. Defendant relies on Juners’ testimony where defendant stated that “something came over him” and Palmore’s testimony regarding defendant’s statement that “it was either him or me.” Defendant argues that this proves that the killings were the result of an impassioned conflict between himself, Cogborn and Thompson.

However, all conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Here, the physical evidence supports the jury’s verdict. Testimony at trial established that, in addition to being stabbed and shot, Thompson was strangled with a belt. As noted above, “[m]anual strangulation can be used as evidence that a defendant had an opportunity to take a ‘second look.’ ” *Gonzalez*, 468 Mich at 641. The fact that Thompson had also been stabbed several times indicates that defendant had the chance to take a second look. Additionally, Juners testified that she observed defendant carrying approximately \$10,000 after the murder. This \$10,000 was approximately the same amount Cogborn had on him while in Canton, and therefore the jury could infer that defendant planned to do the killings for the money. Accordingly, viewing the evidence in the light most favorable to the prosecution, the prosecution presented sufficient evidence of defendant’s premeditation.

Affirmed.

/s/ Henry William Saad
/s/ Kathleen Jansen
/s/ Michael J. Kelly