

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMAN AMR PARISH,

Defendant-Appellant.

UNPUBLISHED

October 18, 2016

No. 328316

Kent Circuit Court

LC No. 14-010942-FC

Before: K. F. KELLY, P.J., and O'CONNELL and BOONSTRA, JJ.

PER CURIAM.

Defendant appeals by right his jury trial convictions of first-degree felony murder, MCL 750.316(1)(b); armed robbery, MCL 750.529; first-degree home invasion, MCL 750.110a(2); unlawful imprisonment, MCL 750.349b; and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant to life imprisonment without parole for the first-degree felony murder conviction, life imprisonment without parole for the armed robbery conviction, 25 to 75 years' imprisonment for the first-degree home invasion conviction, and 10 to 50 years' imprisonment for the unlawful imprisonment conviction, all to run consecutively to a sentence of 2 years' imprisonment for the felony-firearm conviction. We affirm.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

This case arises out of the armed robbery and murder of Brent Luttrell. Defendant and two accomplices, armed with firearms, forcefully entered the victim's home while a third accomplice waited in the car. The victim was subsequently shot, stabbed, and thrown out of a car. An initial accomplice, Zach Bennett,¹ testified at trial that defendant told him that he was armed with a gun and had fired at the victim, as well as stabbed him with a knife. Bennett's girlfriend also testified that she had overheard discussions between defendant and his collaborators after the robbery indicating that defendant had stabbed the victim and that another

¹ Bennett testified that he was involved in planning the robbery but did not accompany defendant and the other perpetrators on the night of the robbery. He testified that he was providing testimony with the understanding that by cooperating he would avoid a charge of felony murder.

robber had shot him. The victim suffered one fatal gunshot wound to the torso, two fatal stab wounds to the torso, and fatal blunt-force trauma injuries to the head that were consistent with falling onto the pavement.

Defendant was convicted as described above. This appeal followed. On appeal, defendant admits that while he may have aided and abetted the armed robbery, the evidence was insufficient to support his first-degree felony murder conviction.

II. STANDARD OF REVIEW

This Court reviews de novo claims of insufficiency of evidence. *People v Lane*, 308 Mich App 38, 57; 862 NW2d 446 (2014). The evidence is reviewed “in a light most favorable to the prosecution to determine whether a rational trier of fact could find that the prosecution had proved the crime’s elements beyond a reasonable doubt.” *Id.* This 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).

III. ANALYSIS

Defendant argues on appeal that the prosecution presented insufficient evidence at trial to support his first-degree felony murder conviction. Specifically, defendant argues that he did not possess the requisite intent or malice for first-degree felony murder. We disagree.

The elements of felony murder are: (1) the killing of a human being, (2) with the intent to kill, do great bodily harm, or create a very high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result [i.e., malice], (3) while committing, attempting to commit, or assisting in the commission of an any of the felonies specifically enumerated in [MCL 750.316]. [*People v Carines*, 460 Mich 750, 758-759; 597 NW2d 130 (1999) (citation omitted) (first alteration in original).]

Armed robbery is an enumerated felony. MCL 750.316(1)(b). Malice may be inferred from evidence “that the defendant intentionally set in motion a force likely to cause death or great bodily harm.” *Id.* at 759. A jury may also infer malice “from the use of a deadly weapon.” *Id.*

There was sufficient evidence for a reasonable jury to conclude that defendant was the one who shot the victim. The jury watched a video of the incident and was able to compare the appearances and body sizes of the involved parties. In addition, the jury heard testimony from Bennett, one of the initial accomplices, that defendant and the others had driven to Bennett’s home before the robbery and had told him that they were bringing guns to the robbery. Bennett also testified that defendant admitted to shooting and stabbing the victim after he attempted to flee. Furthermore, Bennett’s girlfriend testified that she overheard that defendant had stabbed the victim (but that another accomplice had shot the victim). Defendant disputes the credibility of the witnesses produced at trial, but this Court will not interfere with the jury’s role of determining the credibility of witnesses. *People v Stiller*, 242 Mich App 38, 42; 617 NW2d 697 (2000). Based on the video and testimony, a reasonable jury could conclude that defendant was one of the robbers who fired shots at the victim and that he possessed the requisite intent to kill

when he fired a gun at the victim. Further, based on the testimony, a reasonable jury could conclude that defendant had stabbed the victim. Testimony at trial indicated that the knife wounds alone could have been fatal.

Further, even if the jury did not conclude that defendant had actually shot the victim, malice could be inferred because defendant participated in a robbery involving loaded firearms. See *Carines*, 460 Mich at 760 (concluding that even if the defendant did not use the weapon, the jury could infer malice because he participated in a robbery involving the use of a weapon). The surveillance video played at trial showed that all three robbers entered the home armed with a firearm. Defendant's former girlfriend testified that defendant had told her that he had participated in a robbery that had resulted in the unintended death of the victim. The jury could reasonably conclude that, by actively participating in an armed robbery with loaded firearms, defendant "create[d] a very high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result." *Id.* at 758. Therefore, there was sufficient evidence for a reasonable jury to infer that defendant possessed the intent or malice required to support his first-degree felony murder conviction.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Peter D. O'Connell
/s/ Mark T. Boonstra