STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 11, 2012
v	No. 305931 Wayne Circuit Court
DONTAY DANDRE BELL-COOK, Defendant-Appellant.	LC No. 11-000764-FJ

Before: K. F. KELLY, P.J., and MARKEY and SERVITTO, JJ.

PER CURIAM.

Defendant appeals as of right his bench trial convictions of second-degree murder, MCL 750.317, operating a vehicle without a license causing the death of another person, MCL 257.904(4), and first-degree fleeing and eluding, MCL 257.602a(5). Defendant was sentenced to 15 to 30 years' imprisonment for second-degree murder, 1 to 15 years' imprisonment for operating a vehicle without a license causing the death of another person, and 1 to 15 years' imprisonment for first-degree fleeing and eluding. We affirm.

I. BASIC FACTS

On November 28, 2010, Officer Walter Anhut attempted to effectuate a traffic stop of a Chrysler Sebring, which was traveling approximately 10 miles per hour over the posted speed limit. Although Anhut activated the overhead lights of his patrol car, the driver did not pull over but continued to accelerate. Anhut pursued the vehicle for approximately 12 to 13 blocks, during which time the Sebring reached speeds in excess of 70 miles per hour and ran 11 stop signs.

The Sebring ultimately collided with a Toyota Camry, which was driven by the victim, who later died from her injuries. Although the occupants fled the scene, officers were able to apprehend all three of the Sebring's occupants. Defendant, who was 16 years old, was the Sebring's driver. He did not have a driver's license at the time of the accident and has never been a licensed driver. In a statement to police following his arrest, defendant admitted that he and his accomplices stole the Sebring. He admitted evading police, running through multiple stop signs and intersections and traveling through residential areas at speeds between 70 and 80 miles per hour. Defendant claims that before the car crash, his passenger-accomplice grabbed the steering wheel from the passenger seat. Anhut's patrol car was fitted with a video that allowed the trial court to view the entire pursuit.

II. ANALYSIS

On appeal, defendant argues that the evidence was insufficient to establish that he was the proximate cause of the victim's death. We disagree.

"This Court reviews de novo challenges to the sufficiency of the evidence to determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt," viewing the evidence in the light most favorable to the prosecution. *People v Lockett*, 295 Mich App 165; 814 NW2d 295, 303 (2012) (internal quotation marks and citation omitted).

Defendant argues that he was not the proximate cause of the victim's death because defendant's passenger-accomplice grabbed the steering wheel before the vehicle struck the victim's vehicle.

Second-degree murder and operating a vehicle without a license that causes the death of another person require that the prosecution establish causation. MCL 750.317; MCL 257.904(4); see *People v Bailey*, 451 Mich 657, 669; 549 NW2d 325 (1996). We construe the causation element in accordance with its common-law meaning because the statutes do not specifically define it. MCL 750.317; MCL 257.904(4); see *People v Tims*, 449 Mich 83, 94; 534 NW2d 675 (1995). In criminal jurisprudence, the causation element of a criminal offense is comprised of two components: factual cause and proximate cause. *People v Schaefer*, 473 Mich 418, 435; 703 NW2d 774 (2005). "In determining whether a defendant's conduct is a factual cause of the result, one must ask, 'but for' the defendant's conduct, would the result have occurred." *Id*. at 436. If the criminal result would not have occurred absent the defendant's conduct, then factual causation exists. *Id*. However, the establishment of factual causation alone will not support the imposition of criminal liability. *Id*. 436. A defendant's conduct must also be the proximate cause of the victim's injury, meaning "[t]he victim's injury must be a 'direct and natural result' of the defendant's action." *Id*. The Court must examine "whether there was an intervening cause that superseded the defendant's conduct such that the causal link between the defendant's conduct and the victim's injury was broken." *Id*. If an intervening cause supersedes the defendant's act as a legally significant causal factor, then the defendant's conduct will not be deemed a proximate cause of the victim's injury. *Id*. at 438. However, "[w]here an independent act of a third party intervenes between the act of a criminal defendant and the harm to a victim, that act may only serve to cut off the defendant's criminal liability where the intervening act is the *sole* cause of harm." *Bailey*, 451 Mich at 677 (emphasis added). "In assessing criminal liability for some harm, it is not necessary that the party convicted of a crime be the *sole* cause of that harm, only that he be *a* contributory cause that was a substantial factor in producing the harm. The criminal law does not require that there be but *one* proximate cause of harm found. Quite the contrary, *all* acts that proximately cause the harm are recognized by the law." *Id*. at 676 (emphasis added).

There is sufficient evidence in the record for a rational trier of fact to conclude that defendant was the factual cause of the victim's death. "To determine whether a defendant's conduct is a factual cause of a result, one must ask, 'but for' defendant's conduct, would the result have occurred?" *Schaefer*, 473 Mich at 436. Defendant was the driver of the Chrysler Sebring that was involved in the accident with the victim's vehicle. He was driving at an excessive speed of over 70 miles per hour in a residential neighborhood, ignoring numerous stop signs, recklessly entering intersections, and failing to stop the vehicle at police request. "But

for" defendant's reckless driving and the car's striking the victim's vehicle, the victim would not have been killed. Therefore, there is sufficient evidence for a rational trier of fact to conclude that defendant's actions were the factual cause of the accident.

There is also sufficient evidence in the record for a rational trier of fact to conclude that defendant's conduct was the proximate cause of the victim's death. Defendant argues that the passenger's act of grabbing the steering wheel before impact is a superseding, intervening cause that extinguishes defendant's liability. However, it was reasonably foreseeable that defendant's conduct would cause a car accident. Defendant, who was 16 years old, operated a vehicle without a license. Defendant's reckless driving and lack of driving experience created a risk of harm to all drivers on the road. The passenger's conduct was not a superseding cause because grabbing a steering wheel to avoid an oncoming collision was reasonably foreseeable. In addition, the passenger's conduct was not the sole cause of the victim's death. Defendant drove at a reckless speed and in total disregard of stop signs while trying to evade police officers. As a result, there is sufficient evidence that defendant's conduct was the direct and natural cause of the victim's death. Moreover, there is no evidence to suggest that the resulting crash was too remote from defendant's conduct to extinguish liability. Thus, there is sufficient evidence for a rational trier of fact to conclude that defendant caused the victim's death.

Viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could find that defendant caused the victim's death and the elements of second-degree murder and operating a vehicle without a license causing the death of another person were proven beyond a reasonable doubt. Accordingly, there was legally sufficient evidence to convict defendant of second-degree murder and operating a vehicle without a license causing the death of another person.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Jane E. Markey
/s/ Deborah A. Servitto