

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellant,

UNPUBLISHED
May 22, 2012

v

AARON HYDE,

Defendant-Appellee.

No. 307505
Wayne Circuit Court
LC No. 11-009791-FC

Before: DONOFRIO, P.J., and JANSEN and SHAPIRO, JJ.

PER CURIAM.

The prosecution appeals by leave granted from an order granting defendant’s motion to quash the information regarding his first-degree premeditated murder charge, MCL 750.316, and reducing this charge to second-degree murder, MCL 750.317. We reverse and remand.

“Absent an abuse of discretion, reviewing courts should not disturb a magistrate’s decision to bind a criminal defendant over for trial.” *People v Plunkett*, 485 Mich 50, 57; 780 NW2d 280 (2010). “Determining the scope of a statute is a matter of statutory interpretation and as such is reviewed de novo.” *Id.* at 58. “A circuit court’s decision with respect to a motion to quash a bindover order is not entitled to deference because this Court applies the same standard of review to this issue as the circuit court. This Court therefore essentially sits in the same position as the circuit court when determining whether the district court abused its discretion.” *People v Hudson*, 241 Mich App 268, 276; 615 NW2d 784 (2000).

“Probable cause requires a quantum of evidence sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused’s guilt. . . .[y]et to find probable cause, a magistrate need not be without doubts regarding guilt.” *People v Yost*, 468 Mich 122, 126; 659 NW2d 604 (2003) (internal quotation marks and citations omitted). “If the evidence introduced at the preliminary examination conflicts or raises a reasonable doubt about the defendant’s guilt, the magistrate must let the factfinder at trial resolve those questions of fact. This requires binding the defendant over for trial.” *Hudson*, 241 Mich App at 278. “It is sufficient that the prosecutor presents some evidence with respect to each element of the offense charged, or evidence from which the elements may be inferred.” *People v Harlan (On Remand)*, 258 Mich App 137, 145; 669 NW2d 872 (2003).

Under MCL 750.316(1)(a), “[a] conviction of first-degree premeditated murder requires evidence that the defendant intentionally killed the victim and that the act of killing was

premeditated and deliberate.” *People v Jackson*, 292 Mich App 583, 588; 808 NW2d 541 (2011) (internal quotations and citations omitted). “The elements of premeditation and deliberation may be inferred from the circumstances surrounding the killing. 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.” *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995) (citations omitted). See also, *People v Unger*, 278 Mich App 210; 749 NW2d 272 (2008); *People v Gonzalez*, 178 Mich App 526, 531; 444 NW2d 228 (1989).

Four witnesses testified at the preliminary examination: Crystal Jolly, girlfriend of the victim; Ann Jolly, Crystal’s mother and live-in girlfriend of the defendant; and two male friends of the defendant each of whom was present in the house at the time of the events. Crystal testified that on September 11, 2011, Taylor dropped her off at her mother’s home so that she could use Ann’s internet connection for a Skype meeting and that defendant was present at the home. She testified that after she finished her Skype meeting she called Taylor to come and pick her up and that upon his return to the house, Taylor parked in front of the house and came inside the home. According to Crystal, defendant said hello to Taylor who ignored him initially and then responded rudely.

Crystal and Ann testified that defendant and Taylor then began to argue. They testified that the argument grew heated and that although Ann asked Taylor to leave her home and tried to diffuse the situation, Taylor did not leave immediately. There was also testimony that at some point, defendant asked Taylor to leave the house but Taylor refused. According to the Crystal’s testimony, at some point defendant said something like, “You want to whoop my ...?” and Taylor responded, “Yeah, I whoop you’re [sic] ... but I’m going to respect Ms. Jolly’s house.” According to the testimony, Taylor then told defendant, “As a matter of fact, step you’re [sic] ... outside. I’ve got something for you[.]” and went out the front door. According to Crystal’s testimony, Taylor stayed on the porch right next to the door rather than returning to his car where Crystal was by that time waiting for him.

According to Ann’s testimony, after Taylor stepped out onto the porch, defendant went into the kitchen, got a knife, and then went toward the front door with the knife. Ann testified that she yelled, “What are you doing with that knife?” All the witnesses testified that defendant and Taylor then got into some type of physical altercation at the threshold of the door that lasted for several seconds. There was testimony that either Taylor alone or both men threw punches before the stabbing occurred. There was conflicting testimony as to which of the men opened the door and as to the precise location of the struggle, i.e. whether it was across the threshold of the door or at some point fully inside or outside of the house. There was also testimony from defendant’s two friends who were present that when Taylor left the house before the final altercation, they were in fear that he had left in order to obtain a weapon.

Crystal testified that following the altercation, Taylor left the porch and walked to his car. She testified that she saw blood all over his clothes and took him to the hospital. Ann testified that after the altercation Defendant shut the front door and was holding a bloody knife. Defendant left the house with his two friends and went to the home of one of them. Defendant stipulated to the fact that Taylor died as a result of three stab wounds.

The district court judge bound defendant over on charges of first degree murder and voluntary manslaughter. The circuit court concluded that the evidence at the preliminary hearing could support only second degree murder and manslaughter charges and so quashed the first degree murder charge, finding an abuse of discretion. While we agree with the circuit court that inferences can be drawn from the preliminary hearing testimony to support charges of second degree murder and voluntary manslaughter, the question before us is not whether a second degree murder charge is more consistent with the weight of the evidence than is a first degree charge. The only question is whether there was evidence upon which the district court could properly approve a charge of first degree murder. We conclude that there was. According to the testimony, the argument lasted for several minutes and while some of Taylor's recounted statements could be viewed as threats, there was no evidence that he was armed and he did leave the interior of the house. According to the testimony, while Taylor was on the porch, defendant walked to the kitchen, obtained a knife and returned to the front door even though his wife called out to him. While there was some testimony that the victim was the one to open the door and even to reenter the house, there was also testimony from Crystal that defendant was the one who opened the door and reached across the threshold.

The circuit court concluded that there was no evidence that defendant ever "pursued [the victim] or left the safety of his home to confront [the victim]." However, as noted above, there was conflicting evidence as to whether defendant pursued the victim or left the house. Crystal testified that just prior to the stabbing she saw "[defendant] coming out like coming towards the front door, and he opened up the door . . . he opened up the storm door." She also testified that immediately after defendant opened the storm door he "was making jabbing motions" towards the victim. Thus, while there is contradictory testimony as to who initiated the contact and altercation after defendant obtained the knife, resolution of that conflict must be for the jury. There are also widely differing inferences that may be drawn from the testimony and determining which inferences should be drawn is also for the jury. *Hudson*, 241 Mich App at 278. The prosecution did present evidence during the preliminary examination from which the premeditation and deliberation elements of first-degree premeditated murder could be inferred. Therefore, defendant was properly bound over for first-degree premeditated murder and the district court did not abuse its discretion in binding defendant over with respect to this charge.

Reversed and remanded. We do not retain jurisdiction.

/s/ Pat M. Donofrio
/s/ Kathleen Jansen
/s/ Douglas B. Shapiro