

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TANIKA LONYEA LYNCH,

Defendant-Appellant.

UNPUBLISHED

December 30, 1997

No. 196658

Macomb Circuit Court

LC No. 95-002693 FC

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

On this appeal of right from jury convictions of second-degree murder, MCL 750.317; MSA 28.549, and armed robbery, MCL 750.529; MSA 28.797, defendant contends that the trial court erred in deciding to sentence her as an adult rather than a juvenile, following the hearing and findings required by MCL 769.1(3); MSA 28.1072(3). She contends that the trial court's findings of fact are clearly erroneous.

Review of the decision to sentence a minor as a juvenile or an adult is bifurcated. We review the trial court's factual findings regarding each of the statutory factors under the clearly erroneous standard. *People v Lyons (On Remand)*, 203 Mich App 465; 513 NW2d 170 (1994). Factual findings are clearly erroneous if, after review of the record, this Court is left with a definite and firm conviction that a mistake has been made. *Id.* We review the ultimate decision whether to sentence the minor as a juvenile or as an adult for an abuse of discretion. *People v Launsbury*, 217 Mich App 358, 362; 551 NW2d 460 (1996).

After hearing from a variety of witnesses, who presented widely divergent recommendations, the trial court concluded that although defendant had no significant juvenile record of criminal activity, the circumstances and seriousness of the offense, and her adjustment to confinement during pretrial detention, suggested that she would, if sentenced as a juvenile, disrupt the rehabilitation of others. The trial court also concluded that the time allowed the juvenile system for such rehabilitation, perhaps a month more than three years, would be insufficient to achieve the desired goal. The trial court therefore concluded that, given its discretion under both statutes to sentence defendant to life or any term of

years, it could best fashion a sentence designed to achieve rehabilitation by sentencing defendant as an adult.

Defendant recruited another juvenile female to carry a gun for her and otherwise assist in the murder and robbery of the victim, an adult woman who had once befriended defendant. Defendant's boyfriend served as chauffeur. On being admitted to the victim's apartment, defendant shot the victim in the back of the head, then used a large knife she had brought with her to inflict multiple stab wounds in the victim's chest and abdomen, before rolling the victim over and stabbing her in the back and cutting her throat. Defendant then pillaged the victim's apartment of furs and jewelry.

On this record, the trial court's conclusion that (1) sentencing defendant as a juvenile would be inadequate to protect societal interests or to achieve rehabilitation and that (2) her institutional adjustment was a further reason not to sentence her as a juvenile are not clearly erroneous. *People v Cheeks*, 216 Mich App 470, 474-478; 549 NW2d 584 (1996). Given the options available, the trial court did not abuse its discretion in concluding that an adult sentence would best serve the interests of justice. Indeed, defendant makes no argument that the actual sentence imposed, within the guideline range, is disproportionate to the offense or the offender. *People v Perry*, 218 Mich App 520, 544; 554 NW2d 362 (1996); *People v Black*, 203 Mich App 428, 430-431; 513 NW2d 152 (1994).

Affirmed.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck