

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME DOWE,

Defendant-Appellant.

UNPUBLISHED

May 19, 1998

No. 197258

Recorder's Court

LC No. 95-011363

Before: Neff, P.J., and O'Connell and Young, Jr., JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial convictions of second-degree murder, MCL 750.317; MSA 28.549, and first-degree premeditated murder, MCL 750.316(1)(a); MSA 28.548(1)(a). Defendant was sentenced to twenty-five to fifty years' imprisonment for the second-degree murder conviction. That sentence was then vacated, and defendant was sentenced to life imprisonment without the possibility of parole for the first-degree murder conviction. We affirm defendant's conviction for first-degree murder. We vacate defendant's conviction for second-degree murder.

Defendant argues that there was insufficient evidence to support his conviction for first-degree murder. We disagree. When reviewing a claim of insufficient evidence, this Court must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

To prove first-degree murder, the prosecution must establish 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). Premeditation and deliberation require sufficient time to allow the defendant to take a second look. *Id.* These elements may be inferred from all the facts and circumstances surrounding the incident, including the parties' prior relationship, the actions of the accused both before and after the crime, and the circumstances of the killing itself. *Id.* Circumstantial evidence and reasonable inferences arising from the evidence may constitute satisfactory proof of the

elements of the offense. *People v Saunders*, 189 Mich App 494, 495-496; 473 NW2d 755 (1991). Moreover, “[o]ne who procures, counsels, aids, or abets the commission of an offense may be prosecuted, convicted, and punished as if he directly committed the offense.” *People v McCray*, 210 Mich App 9, 13; 533 NW2d 359 (1995); MCL 767.39; MSA 28.979.

Viewing the evidence in a light most favorable to the prosecution, we conclude that the evidence was sufficient for a rational trier of fact to find defendant guilty of first-degree murder either as the principal or as an aider and abettor. Two witnesses, Johnny Fox and Anthony Lee, testified that they saw defendant and another man sitting in either a gray or silver Pontiac Grand Prix parked near the victim’s business, Trailer Services. The parties stipulated that defendant owned a “bright silver metallic” Grand Prix at the time. Fox testified that he saw defendant and the driver exit Trailer Services and speed away minutes before Fox discovered the victim inside, suffering from three gunshot wounds: one to his head, one to his chest, and a near-contact gunshot wound to his right hand. The medical examiner testified that it was possible, although not probable, that the bullet that struck the victim’s chest first passed through his hand. At the time of the shooting, except for defendant and the driver of the Grand Prix, the victim was the only person known to have been in the building. Moreover, defendant had recently been fired from Trailer Services, and he told a Trailer Services manager immediately thereafter that “[Farquhar’s] day is coming.” The evidence was sufficient to establish the elements of first-degree murder, including premeditation and deliberation, beyond a reasonable doubt.

Finally, although not an issue raised by defendant, we note that defendant’s convictions for both first- and second-degree murder violate the prohibition against double jeopardy. See *People v Zeitler*, 183 Mich App 68, 71; 454 NW2d 192 (1990); US Const, Am V; Const 1963, art 1, § 15. Accordingly, we vacate defendant’s second-degree murder conviction.

Affirmed in part and vacated in part.

/s/ Janet T. Neff
/s/ Robert P. Young, Jr.

I concur in result only.

/s/ Peter D. O’Connell