

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY RAY,

Defendant-Appellant.

UNPUBLISHED
May 30, 2000

No. 210708
Wayne Circuit Court
LC No. 97-001723

Before: Holbrook, Jr., P.J., and Kelly and Collins, JJ.

KELLY, J. (dissenting).

I respectfully dissent. I believe that proofs were insufficient to establish premeditation.

First-degree murder is distinguished from second-degree murder by the presence of premeditation and deliberation. *People v Morin*, 31 Mich App 301, 329-331; 187 NW2d 434 (1971). The defendant's conviction for first-degree murder should be vacated and the matter remanded for entry of judgment of conviction of second-degree murder and resentencing.

/s/ Michael J. Kelly