

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD W. DORMAN,

Defendant-Appellant.

UNPUBLISHED

June 14, 2002

No. 230876

Eaton Circuit Court

LC No. 00-020095-FC

Before: Bandstra, P.J., and Hoekstra and O’Connell, JJ.

PER CURIAM.

Defendant was convicted by jury of first-degree murder, MCL 750.316(1)(a), and second-degree murder, MCL 750.317, for the slaying of his parents. The trial court sentenced him to life in prison without parole and life in prison, respectively. Defendant appeals as of right. We affirm.

The sole issue on appeal is whether the trial court erred in admitting DNA evidence in the absence of statistical evidence concerning the frequency of matches. Specifically, defendant claims that admission of DNA analysis testimony and an expert witness’ opinion that DNA matches were present was erroneous because no statistical evidence concerning the frequency of matches was presented. Because defendant did not object to the admission of the DNA evidence, this Court’s review is for plain error that affected defendant’s substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). If this standard is met, then reversal is warranted only if the error resulted in the conviction of an actually innocent person or seriously affected the fairness, integrity, or public reputation of the judicial proceedings. *Id.*

The admissibility of expert witness testimony is within the trial court’s discretion and is reviewed for an abuse of discretion. *People v Smith*, 425 Mich 98, 105-106; 387 NW2d 814 (1986). Expert witness testimony is admissible if the court determines it will assist the jury to understand the evidence or to determine a fact at issue. MRE 702. The critical question is whether the testimony will aid the jury in making the ultimate decision in the case. *Smith, supra* at 105.

On appeal, defendant relies on *People v Coy*, 243 Mich App 283, 294-295; 620 NW2d 888 (2000), in which expert witness testimony that a defendant’s DNA was consistent with a mixed blood sample was held inadmissible because no statistical evidence was offered to clarify

the significance of the possible DNA match. However, the *Coy* Court emphasized that “by no means should [the] decision be construed to suggest that the admission of DNA testing evidence lacking the accompanying, interpretive statistical analysis in every case represents error requiring reversal.” *Id.* at 313.

In the present case, the expert witness used different terminology based on the results of his testing and explained the differences between a match and an exclusion. Although defendant complains that there was no expert testimony concerning “any statistical basis for the frequency that such a ‘match’ would be found in the relevant populations,” there was no question that defendant was present and involved in his parents’ murders. Cf *Coy, supra* (the DNA evidence was relied on to place the defendant at the scene of the murders). The jury did not need a detailed statistical analysis for the information to be probative, relevant, and helpful to understand the evidence and determine facts at issue. Thus, we find no abuse of discretion in the trial court’s admission of the DNA evidence.

Notwithstanding the DNA evidence, other evidence strongly indicated that the murder of defendant’s father was deliberate and premeditated. Premeditation and deliberation may be inferred from the circumstances of a murder, including the defendant’s behavior before and after the crime. *People v Kelly*, 231 Mich App 627, 642; 588 NW2d 480 (1998); *People v DeLisle*, 202 Mich App 658, 660; 509 NW2d 885 (1993). A jury may consider whether the defendant had time to take a “second look” before the murder occurred, *id.*, including the time that elapsed between various methods of assault, *Kelly, supra*. Defensive wounds on the victim can be evidence of premeditation. *People v Johnson*, 460 Mich 720, 733; 597 NW2d 73 (1999).

Testimony at trial indicated that defendant’s father had defensive wounds on his hands, right elbow, and forearms, and he died as the result of multiple blunt and sharp force injuries. A witness testified that she had seen defendant attack his father. Testimony further indicated that defendant disposed of evidence, created a detailed alibi, blamed the murders on “Arabs”, repeatedly lied to the police, and told a self-serving and implausible story about his limited involvement in the murders. Even if admission of the DNA were error, defendant has not shown that it affected the outcome of the proceedings because the evidence, even without the DNA analysis, overwhelmingly points to defendant as the perpetrator of a premeditated and deliberate murder of his father. Moreover, there is no concern that defendant is actually innocent, and the expert witness testimony certainly did not dishonor the fairness or integrity of the judicial proceedings. *Carines, supra*. Thus, even if plain error did exist, reversal is not warranted.

Affirmed.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Peter D. O’Connell