

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

JAMES LOUIS-ALLEN BELL, a/k/a JAMES
BELL, JR.,

Defendant-Appellant.

UNPUBLISHED

November 28, 2006

No. 263184

Wayne Circuit Court

LC No. 04-012850-01

Before: Servitto, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right his jury conviction of first-degree premeditated murder, MCL 750.316(1)(a). Because defendant waived his argument concerning the admission of prior bad acts evidence, there was sufficient evidence to establish the corpus delicti of the charges, and the trial court did not err in denying defendant's motion for directed verdict, we affirm.

On September 13, 2004, the dead body of a female was found wrapped in plastic bags in the basement of an abandoned house. On October 6, 2004, defendant was approached by a police officer while standing in the middle of the road. When he moved to the side of the road, defendant stated to the officer that he had killed his girlfriend and placed her body in a basement. Defendant then directed officers to the abandoned home where the body had previously been found and was charged with murder shortly thereafter. Defendant was convicted by jury of first-degree premeditated murder and sentenced to life in prison without parole.

Defendant raises two arguments on appeal. First, defendant argues that the trial court erred when it allowed the prosecution to introduce other act evidence under MRE 404(b). We conclude that defendant has waived this argument by failing to provide the relevant transcript containing the trial court's ruling in response to his objection to the prosecution's motion to admit other act evidence. See *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995); MCR 7.210(B)(1)(a).

Defendant next argues that the trial judge erred when she allowed defendant's incriminating statements into evidence because the corpus delicti of murder had not been established, and furthermore, that the trial court erred when it denied defendant's motion for a directed verdict. We disagree with both of defendant's arguments.

Defendant failed to object to the admission of his incriminating statements on the ground that the corpus delicti of first-degree murder had not been established, and thus, defendant failed to properly preserve this argument. *People v Grant*, 445 Mich 535, 546; 520 NW2d 123 (1994). Thus, we will review defendant's corpus delicti argument for plain error which affected his substantial rights. *People v Jones*, 468 Mich 345, 355-356; 662 NW2d 376 (2003); *People v Carines*, 460 Mich 750, 763, 773; 597 NW2d 130 (1999).

"The corpus delicti rule requires that a preponderance of direct or circumstantial evidence, independent of a defendant's inculpatory statements, establish the occurrence of a specific injury [or loss] and criminal agency as the source of the injury before such statements may be admitted as evidence." *People v Burns*, 250 Mich App 436, 438; 647 NW2d 515 (2002). The corpus delicti of murder is death caused by criminal agency. *People v McMahan*, 451 Mich 543, 549; 548 NW2d 199 (1996). "The corpus delicti rule is designed to prevent the use of a defendant's confession to convict him of a crime that did not occur." *People v Konrad*, 449 Mich 263, 269; 536 NW2d 517 (1995). "Proof of the identity of the perpetrator of the act or crime is not a part of the corpus delicti." *Id.* at 270. It is sufficient to show that someone committed the crime. *Id.*

Here, the victim's dead body, which was wrapped in black plastic bags that were duct taped together, was found in the basement of an abandoned house. Dr. Pasquales Styles, who was qualified as an expert in forensic pathology and examined the victim's body, stated that the victim's wrists were duct taped together, that there were no signs of a natural or drug-induced death, and that it was her conclusion that the manner of the victim's death was homicide. Without using any of defendant's statements, then, circumstantial evidence was provided that established a "death caused by criminal agency." Thus, the corpus delicti of first-degree murder was established, and the trial court did not abuse its discretion, let alone commit plain error, when it allowed defendant's incriminating statements into evidence. *McMahan*, *supra*, p 549; *Burns*, *supra*, p 438. Accordingly, the trial court properly considered defendant's statements when ruling on defendant's motion for a directed verdict.

Defendant properly preserved his directed verdict argument by making a motion for a directed verdict. *People v Aldrich*, 246 Mich App 101, 122; 631 NW2d 67 (2001). Thus, we will review the record de novo to determine whether the evidence presented by the prosecutor, up to the time the motion was made, viewed in the light most favorable to the prosecutor, could have persuaded a rational trier of fact that the essential elements of first-degree murder were proven beyond a reasonable doubt. *People v Werner*, 254 Mich App 528, 530; 659 NW2d 688 (2002). In engaging in such a review, we will afford deference to the jury's special opportunity and ability to determine the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992).

The elements of first-degree premeditated murder are (1) that the defendant killed the victim, and (2) that the killing was willful, deliberate, and premeditated, or committed in the course of a felony enumerated in MCL 750.316. *People v Bowman*, 254 Mich App 142, 151; 656 NW2d 835 (2002). Premeditation and deliberation characterize a thought process undisturbed by hot blood and require sufficient time to permit the defendant to reconsider his actions; they may be established by evidence of the prior relationship of the parties, the defendant's actions before the killing, the circumstances of the killing itself (including the weapon used and the location of the wounds inflicted) and the defendant's conduct after the

homicide. *People v Abraham*, 234 Mich App 640, 656; 599 NW2d 736 (1999); *People v Plummer*, 229 Mich App 293, 299-301; 581 NW2d 753 (1998). Circumstantial evidence and reasonable inferences from the evidence can be sufficient to prove the elements. *Id.* A defendant's intent "is a question of fact to be inferred from the circumstances by the trier of fact." *People v Kieronski*, 214 Mich App 222, 232; 542 NW2d 339 (1995).

In this matter, the evidence at trial established that the victim's dead body, which was wrapped in black plastic bags that were duct taped together, was found in the basement of an abandoned house. When officer Eugene Fitzue went to defendant's apartment, he observed black plastic bags in the living room and blood on the bedroom floor. Furthermore, Teresa Tyson testified that defendant asked her for some tape, and that later in the day she saw defendant, who had scratches on his neck, carrying black garbage bags. Moreover, Eddie Williams, who owned the apartment complex that defendant lived in, testified that in September of 2004 he saw a bucket of blood with a white shirt in it in defendant's apartment, as well as blood on defendant's mattress. Most importantly, defendant told officer Matthew Guigar that he had killed his girlfriend and buried her in a plastic bag in an abandoned basement. Additionally, defendant's written statement that was taken by officer Barbara Simon indicates that he and the victim got into an argument over money in September of 2004 that escalated into pushing and hitting, and eventually resulted in defendant pushing the victim up against a wall and choking her until she passed out. Defendant's written statement further indicated that after an unspecified amount of time passed and the victim was still not moving, defendant put the victim's body into a black plastic bag and moved her down the street to a vacant house and left her in the basement of the house. Therefore, viewing the evidence presented by the prosecutor, up to the time defendant made his motion for a directed verdict, in a light most favorable to the prosecution, we conclude that a rational trier of fact could reasonably infer that defendant killed the victim and that his actions were premeditated and deliberate. *Abraham, supra*, p 656; *Kieronski, supra*, p 232. Thus, the trial court properly denied defendant's motion for a directed verdict. *Bowman, supra*, p 151; *Werner, supra*, p 530.

Affirmed.

/s/ Deborah A. Servitto
/s/ E. Thomas Fitzgerald
/s/ Michael J. Talbot