

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LACARLA RENEE MCCARTY,

Defendant-Appellant.

UNPUBLISHED

November 18, 2010

No. 293275

Kent Circuit Court

LC No. 08-012047-FC

Before: STEPHENS, P.J., and MARKEY and WILDER, JJ.

PER CURIAM.

Defendant appeals by right her jury trial conviction for first-degree murder, MCL 750.316, under the theories of premeditation and felony murder. The trial court sentenced defendant to life imprisonment without the possibility of parole. The prosecution's theory at trial was that defendant aided and abetted the alleged principal, Andrew Neal, in the murder of Mashonda Griffin. On appeal, defendant argues there was insufficient evidence presented at trial to support her conviction. We affirm.

We review challenges to the sufficiency of the evidence de novo. *People v Schumacher*, 276 Mich App 165, 167; 740 NW2d 534 (2007). We must view the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could have found that all the elements of the offense were proved beyond a reasonable doubt. *Id.* This standard is deferential and requires that we "draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

To be convicted of first-degree premeditated murder, the prosecution must prove the defendant intentionally killed the victim and the killing was done with premeditation and deliberation. MCL 750.316(1)(a); *People v Taylor*, 275 Mich App 177, 179; 737 NW2d 790 (2007). Premeditation and deliberation may be inferred from all circumstances surrounding the killing and from the killing itself. *People v Unger*, 278 Mich App 210, 229; 749 NW2d 272 (2008). A time span between the initial homicidal intent and the ultimate killing, sufficient to allow the defendant to take a second look, is necessary to establish premeditation and deliberation. *Id.* To establish guilt under the theory of aiding and abetting, the prosecution must prove:

“(1) the crime charged was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission

of the crime, and (3) the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time that [the defendant] gave aid and encouragement.”” [People v Plunkett, 485 Mich 50, 61; 780 NW2d 280 (2010) (citations omitted).]

The amount of aid or assistance given is immaterial as long as it had the effect of inducing or encouraging the crime. *People v Palmer*, 392 Mich 370, 378; 220 NW2d 393 (1974).

Viewing the evidence in the light most favorable to the prosecution, we conclude that a rational jury could find beyond a reasonable doubt that defendant aided and abetted Neal in the premeditated murder of Griffin. The prosecution presented sufficient evidence that defendant assisted Neal with the murder of Griffin. On October 24, 2008, Neal told defendant he was going to kill Griffin to get money. While driving Neal to Griffin’s house on October 27, 2008, Neal told defendant again he was going to kill Griffin. Defendant threw away Neal’s clothes after the murder and was reluctant to cooperate with police officers during the investigation. Defendant also called a friend to try to create an alibi for Neal in the event the police interviewed the friend. When considering this evidence, a reasonable jury could conclude that defendant assisted Neal in the premeditated and deliberate murder of Griffin.

In addition to her first-degree premeditated murder conviction, defendant also appeals her felony murder conviction. The elements of felony murder are:

“(1) the killing of a human being, (2) with the intent to kill, to do great bodily harm, or to create a very high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result [i.e., malice], (3) while committing, attempting to commit, or assisting in the commission of any of the felonies specifically enumerated in [MCL 750.316(1)(b) . . .].”” [People v Smith, 478 Mich 292, 318-319; 733 NW2d 351 (2007) (citations omitted).]

In order to prove felony murder on an aiding and abetting theory, the prosecutor must show that the accused: (1) performed acts or gave encouragement that assisted the commission of the killing of a human being, (2) with the intent to kill, to do great bodily harm, or to create a high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result, (3) while committing, attempting to commit, or assisting in the commission of any of the felonies specifically enumerated in MCL 750.316(1)(b). *Plunkett*, 485 Mich at 61; *Smith*; 478 Mich at 318-319. Although the prosecution must prove that one who aids and abets felony murder possessed the requisite malice to be convicted of felony murder, an accomplice need not share the same malice as the principal. *People v Robinson*, 475 Mich 1, 14; 715 NW2d 44 (2006).

At trial, the prosecution presented evidence that Griffin was an active member of the New Life Tabernacle Church and was responsible for accounts receivables, accounts payable, and taking deposits to the bank. She also had a job working with mortgages and loans. Neal attended the same church for a year during the time Griffin performed these functions. Both defendant and Neal experienced financial difficulties at the time of the murder. Defendant testified that she had a car payment and struggled to pay bills on time, and Neal was three months’ delinquent on car payments.

Based on defendant's financial issues and her conduct in relation to Neal's pursuit to get money from Griffin, a reasonable jury could find that defendant aided and abetted Neal in the commission of the larceny. Neal told defendant that he was going to "hit a lick" (get \$10,000) from Griffin. He indicated that defendant was going to help him and that her financial problems would be taken care of. Defendant stated during her interrogation that she needed the money Neal was trying to get and that she could not be "out on the streets." Additionally, defendant drove Neal to Griffin's house to commit the larceny. Reviewing this evidence in a light most favorable to the prosecution, there was a sufficient amount of evidence presented by the prosecution to support a finding that defendant aided and abetted Neal in the commission of the larceny of Griffin. The evidence was sufficient to permit the jury to infer that defendant intended to assist the commission of a larceny that would create a high risk of death or great bodily harm with knowledge that death or great bodily harm was the probable result. Therefore, because defendant assisted Neal in committing a larceny which resulted in the Griffin's murder, the jury appropriately convicted defendant of felony murder.

We affirm.

/s/ Cynthia Diane Stephens
/s/ Jane E. Markey
/s/ Kurtis T. Wilder