

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TRUMELL DYMON TURNER,

Defendant-Appellant.

UNPUBLISHED

June 25, 2013

No. 307748

Wayne Circuit Court

LC No. 11-007577-FC

Before: JANSEN, P.J., and CAVANAGH and MARKEY, JJ.

PER CURIAM.

Defendant appeals by right his convictions following a bench trial of two counts of second-degree murder, MCL 750.317, and possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced defendant as a third-offense habitual offender, MCL 769.11, to 30 to 60 years' imprisonment for each of his second-degree murder convictions and to two years' imprisonment for his felony-firearm conviction. We affirm.

Defendant lived with his girlfriend, Veronica Williams, at her house on Linnhurst in Detroit. Veronica Williams's brother, Reginald Williams, and nephew, Michael Williams, also lived in the house. One morning, when defendant awoke, he noticed that Veronica's Chrysler 300C had been stolen from her driveway. Defendant suspected that Laron and Demetrious Blakeney were somehow involved in the theft of this vehicle.

Laron and Demetrious walked by the house on Linnhurst later that same day. Reginald, realizing that these were the two people who defendant believed stole Veronica's car, reported to defendant that Laron and Demetrious were walking past the house. Shortly thereafter, defendant grabbed his gun and got into a car with Reginald. They drove in the direction that Laron and Demetrious were walking. Upon spotting Laron and Demetrious at the corner of Glenwood and Morang, defendant told Reginald to stop the car. Defendant exited the car and confronted Laron and Demetrious. As Demetrious turned to run, defendant shot him four times. Jasmine Simmons, who lived in an apartment near Glenwood and Morang, heard a conversation after the first gunshots. Simmons, who was also Laron's friend, heard Laron's voice state, "I had nothing to do with it." She then heard another voice, which she could not identify, state, "Yes, you did." Then, there was more gunfire, as defendant gunned down Laron. Laron died from gunshot wounds at the corner of Glenwood and Morang.

Meanwhile, Demetrious continued to run until he collapsed at the corner of Casino and Payton. While waiting for an ambulance, Demetrious told police that the person who shot him drove a Chrysler 300C, was new to the area, and lived on Linnhurst near the intersection of Linnhurst and Brock. Demetrious also spoke with his cousin, Jacarri Blakeney and told Jacarri that individuals who drove the Chrysler 300C had shot him and Laron. Jacarri testified that defendant fit all of the descriptions given by Demetrious.

After the shooting, defendant and Reginald returned to the house on Linnhurst. There, defendant informed Michael and Veronica that he had killed someone and that they would need to leave as soon as possible. While in the car, defendant bragged on the phone about killing two people because he was sick of people giving Veronica problems. Defendant later fled to Atlanta.

The trial court convicted defendant of two counts of second-degree murder and felony-firearm.

On appeal, defendant argues that there was insufficient evidence to convict him of the two counts of second-degree murder, specifically challenging the sufficiency of the evidence as to malice. “This Court reviews de novo a challenge to the sufficiency of the evidence in a bench trial.” *People v Lanzo Const Co*, 272 Mich App 470, 473; 726 NW2d 746 (2006). When considering such a claim, “[t]he evidence is viewed in a light most favorable to the prosecution to determine whether the trial court could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *Id.* at 474.

“The elements of second-degree murder are: (1) a death, (2) caused by an act of the defendant, (3) with malice, and (4) without justification or excuse.” *People v Goecke*, 457 Mich 442, 463-464; 579 NW2d 868 (1998). Circumstantial evidence and reasonable inferences arising from the evidence can constitute satisfactory proof of the elements of a crime. *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008). Conflicts in the evidence must be resolved in the prosecution’s favor and questions of credibility are for the trier of fact to resolve. *Id.*

The first and second elements of second-degree murder were met by the evidence beyond a reasonable doubt because there was undisputed testimony that Laron and Demetrious died from gunshot wounds. Further, Reginald testified that he saw defendant shoot both Laron and Demetrious. Michael testified that shortly after defendant drove off to find Laron and Demetrious, he returned and bragged about killing two people. Further, while dying, Demetrious described his killer as someone new to the neighborhood that drove a Chrysler 300C and lived on Linnhurst. Defendant fit all of these descriptions. The trial court, as trier of fact, was free to believe Reginald’s eyewitness testimony over defendant’s testimony and to infer that defendant was bragging about killing Laron and Demetrious when speaking with Michael. Moreover, the trial court could also infer that Demetrious was describing defendant as his killer.

The third and challenged element requires malice on behalf of defendant. “Malice is defined as the intent to kill, the intent to cause great bodily harm, or the intent to do an act in wanton and wilful disregard of the likelihood that the natural tendency of such behavior is to cause death or great bodily harm.” *Goecke*, 457 Mich at 464. Malice may be inferred when a deadly weapon is used in the commission of a homicide. *People v Fletcher*, 260 Mich App 531, 562; 679 NW2d 127 (2004). The facts, viewed in the light most favorable to the prosecution,

show that defendant tracked down Laron and Demetrious, and when he found them, he killed them both by shooting them four times with a nine-millimeter pistol. He then bragged about the killing and essentially indicated it was intentional when he said he was sick of people messing with Veronica. This evidence is sufficient for a rational trier of fact to find that the killings were committed with malice.

The fourth, and final, element of second-degree murder requires that defendant killed Laron and Demetrious without justification or excuse. *Goetze*, 457 Mich at 463-464. The trial court inferred that defendant had no excuse or justification for killing the two victims because the police found no guns or weapons on or surrounding Laron or Demetrious. Further, defendant provided no evidence of justification or excuse. Consequently, the evidence was sufficient for the trial court to find the final element of second-degree murder proven beyond a reasonable doubt.

We affirm.

/s/ Kathleen Jansen
/s/ Mark J. Cavanagh
/s/ Jane E. Markey