

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK DELOREAN COLLINS,

Defendant-Appellant.

UNPUBLISHED

May 8, 2007

No. 268412

Wayne Circuit Court

LC No. 05-010121-01

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

PER CURIAM.

Defendant was convicted by a jury of two counts of first-degree premeditated murder, MCL 750.316(1)(a), assault with intent to commit murder, MCL 750.83, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced as a third-felony habitual offender, MCL 769.11, to life imprisonment for each murder conviction and 375 to 600 months for the assault conviction, those sentences to be served concurrently, but consecutive to a two-year term of imprisonment for the felony-firearm conviction. He appeals as of right. We affirm.

In his sole issue on appeal, defendant argues that there was insufficient evidence of premeditation to support his first-degree murder convictions. We disagree.

The sufficiency of the evidence is evaluated by reviewing the evidence, and any reasonable inferences arising from the evidence, in a light most favorable to the prosecution to determine whether a rational trier of fact could find every element of the crime charged proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979); *People v Reddick*, 187 Mich App 547, 551; 468 NW2d 278 (1991).

Premeditation is an essential element of first-degree premeditated murder. MCL 750.316(1)(a); *People v Bowman*, 254 Mich App 142, 151; 656 NW2d 835 (2002). “To premeditate is to think about beforehand; to deliberate is to measure and evaluate the major facets of a choice or a problem.” *People v Furman*, 158 Mich App 302, 308; 404 NW2d 246 (1987). Both “characterize a thought process undisturbed by hot blood.” *Id.* “While the minimum length of time needed to exercise this process is incapable of exact determination, a sufficient interval between the initial thought and the ultimate action should be long enough to afford a reasonable [person] an opportunity to take a ‘second look’ at his contemplated actions.” *Id.*; see also *People v Anderson*, 209 Mich App 527, 537; 531 NW2d 780 (1995). Premeditation

and deliberation may be inferred from all the facts and circumstances, including the relationship between the parties, the circumstances of the killing itself, and the defendant's conduct before and after the killing. *Id.*; *Furman, supra* at 308. Premeditation can also be inferred from the type of weapon used and the location of the wounds. *People v Berry (On Remand)*, 198 Mich App 123, 128; 497 NW2d 202 (1993).

Defendant argues that in *People v Plummer*, 229 Mich App 293, 304 n 1; 581 NW2d 753 (1998), this Court held that premeditation cannot be inferred *solely* from a defendant's possession of a loaded weapon. However, the Court also recognized that "a pause between the initial homicidal intent and the ultimate act may, in appropriate circumstances, be sufficient for premeditation and deliberation." *Id.* at 301. Conversely, "[w]hen the evidence establishes a fight and then a killing," the prosecutor must make a showing that the defendant's thought process was undisturbed by hot blood, such that he had the *capacity* to premeditate. *Id.*

In the present case, the evidence showed that defendant was playing dice with Leandre McKinney and Michael Hitchens and apparently lost some money. Defendant left the game, but returned very quickly, with a loaded handgun concealed in his waistband. Defendant walked through the house, looked out the window, walked back to the dining room, and spent several minutes talking to McKinney and Hitchens. No argument was heard. Defendant then pulled out his gun and shot McKinney and Hitchens in the head, without saying anything. McKinney was shot from close range. Defendant then walked into the living room and shot Kevin Jackson in the head three times, until Jackson pretended to be dead. After defendant was arrested, he told his girlfriend that he would be coming home because none of the victims were alive, so there were no witnesses and the police "ain't got nothin."

Viewed in a light most favorable to the prosecution, the evidence was sufficient to show that between the time defendant came back inside the house and the time of the actual shootings, there was enough time for a reasonable person to reevaluate and contemplate his plan of action. An inference of premeditation also arises from the use of a gun, and from defendant's decision to shoot the victims in the head. Moreover, there was no evidence of a fight or altercation affecting defendant's capacity to premeditate. On the contrary, defendant appeared to act dispassionately, and did not speak during the shootings or otherwise evidence a thought process disturbed by hot blood. Defendant's capacity to premeditate is also corroborated by defendant's own statements, which indicate that he shot the victims in order to avoid leaving any witnesses. In sum, there was sufficient evidence to enable a rational trier of fact to find defendant guilty of first-degree premeditated murder beyond a reasonable doubt.

Affirmed.

/s/ Michael J. Talbot
/s/ Pat M. Donofrio
/s/ Deborah A. Servitto