STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED December 10, 2009
v	No. 287419 Kent Circuit Court
IATONDA PHUPATRIK TAYLOR, Defendant-Appellant.	LC No. 06-011732-FC

Before: Markey, P.J., and Bandstra and Murray, JJ.

PER CURIAM.

Defendant appeals of right his bench trial conviction for first-degree murder, MCL 750.316. Defendant was sentenced as an habitual offender, fourth offense, MCL 769.12, to life imprisonment without parole for the conviction. We affirm.

Defendant argues that he proved by a preponderance of the evidence that he was legally insane and therefore his conviction should be reversed. We view this challenge as an allegation that the verdict was against the great weight of the evidence. A verdict is against the great weight of the evidence "if the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to allow the verdict to stand." *People v Unger*, 278 Mich App 210, 232; 749 NW2d 272 (2008).

MCL 768.21a(1) provides that "[i]t is an affirmative defense to a prosecution for a criminal offense that the defendant was legally insane when he or she committed the acts constituting the offense. An individual is legally insane if, as a result of mental illness . . . that person lacks substantial capacity either to appreciate the nature and quality or the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law." "The defendant has the burden of proving the defense of insanity by a preponderance of the evidence." MCL 768.21a(3). The probative value or weight to be given to an expert's opinion regarding insanity depends on the facts on which it was based. *People v Pickens*, 446 Mich 298, 335; 521 NW2d 797 (1994). In addition, "[t]he number of witnesses which a party garners is quite irrelevant in determining where the truth lies." *People v Hagle*, 67 Mich App 608, 617; 242 NW2d 27 (1976). And, if the evidence conflicts, the issue of credibility ordinarily should be left for the trier of fact. *People v Lemmon*, 456 Mich 625, 642-643; 576 NW2d 129 (1998); *People v Culpepper*, 59 Mich App 262, 265-266; 229 NW2d 407 (1975).

In this case, the trial court rendered findings regarding the circumstances of the incident, which were supported by Dr. Charles Clark's testimony. The trial court agreed with Dr. Clark that defendant was not insane when he committed the murder. There are many facts that support this conclusion. Defendant possessed the cognitive ability to remove his bloody clothes, shoes, and gloves after the murder, thereby concealing his involvement in the crime. He chose not to answer the door when Douglas Rittenhouse arrived, indicating an ability to understand that his actions were wrong and that Rittenhouse should not be allowed to discover what defendant had done before defendant had the opportunity to flee the scene. There was also evidence to suggest that defendant put the dogs in their basement kennels at some point before leaving the home, which reflected either a desire to keep the dogs quieter or to put the dogs where defendant knew they belonged when no one was at home. Either conclusion demonstrates that defendant was thinking rationally and understood the circumstances. Defendant also fled the scene in a vehicle, which he chose by his own admission because it contained gas. A reasonable fact-finder could conclude, and did, in this case, that defendant's leaving the scene in a vehicle containing gas reflected that defendant was in a state of awareness and thinking about events in a rational enough state to know that it was important not to run out of gas after leaving the scene. Also, defendant turned himself in at the Detroit police department and indicated that he had hurt his brother "real bad." Later, when reflecting upon this, defendant stated "it bothered me the things that I had done." All of these actions and statements clearly reflect that defendant possessed the substantial capacity to appreciate the nature and quality or wrongfulness of his actions and that he knew that his actions did not conform to the requirements of the law. MCL 768.21a(1).

In addition, all of the experts acknowledged that defendant continued over time to add more information to his account of the events that transpired, and all of this added information appeared to help defendant's claim of insanity. Moreover, the trial court was not required to accept the contrary opinions of Dr. Thomas Shazer or Dr. Daniel Rosen that defendant was insane at the time of the incident. *Lemmon*, *supra* at 642-643; *Culpepper*, *supra* at 265-266. Consequently, although there were conflicting expert opinions regarding defendant's legal insanity, the trial court, as the finder of fact, exercised its authority to weigh the evidence, assess credibility, and resolve the conflicting evidence. *Id*.; *Lemmon*, *supra* at 642-643; *Pickens*, *supra* at 335. Therefore, we conclude that the trial court's rejection of defendant's insanity defense was not against the great weight of the evidence. *Unger*, *supra* at 232.[1]

Affirmed.

/s/ Jane E. Markey
/s/ Richard A. Bandstra
/s/ Christopher M. Murray

[1] We also reject defendant's assertion that the trial court was focused on safety issues when deciding the applicability of the insanity defense. Nowhere in its detailed findings on this issue did the trial court mention current or future safety concerns, but instead remained focused on the relevant facts.