

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRY LARONE MCCLENDON,

Defendant-Appellant.

UNPUBLISHED
October 27, 1998

No. 197496
Washtenaw Circuit Court
LC No. 94-2435-FC

Before: Talbot, P.J., and McDonald and Neff, JJ.

PER CURIAM.

A jury convicted defendant of first-degree murder, MCL 750.316; MSA 28.548, and second-degree murder, MCL 750.317; MSA 28.549. The trial court sentenced defendant to life imprisonment without parole for the first-degree murder conviction and vacated the sentence for the second-degree murder conviction. Defendant appeals as of right. We affirm.

Defendant argues the trial court erred in denying his motion to suppress because the police lacked probable cause to arrest, and therefore, the fruit of the illegal search should have been suppressed. We disagree.

This Court will not disturb a trial court's ruling at a suppression hearing unless we find the ruling is clearly erroneous. *People v Solomon*, 220 Mich App 527, 530; 560 NW2d 651 (1997). We will reverse the trial court's decision where, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made. *People v Muro*, 197 Mich App 745, 747; 496 NW2d 401 (1993).

A police officer may arrest a suspect without a warrant if the officer has reasonable, or probable, cause to believe that a felony has been committed and that the suspect committed the felony. MCL 764.15; MSA 28.874; *People v Thomas*, 191 Mich App 576, 579; 478 NW2d 712 (1991). Probable cause to arrest exists if the facts available to the officer at the time of arrest would justify a fair-minded person of average intelligence in believing that the suspected person has committed a felony. *People v Oliver*, 417 Mich 366, 374; 338 NW2d 167 (1983); *Thomas, supra* at 579.

The police had probable cause when they arrested defendant. Among other information, at the time of defendant's arrest, the police knew that in order to enter the victim's apartment building, a visitor had to press a buzzer and then the apartment resident had to come and open the door for the visitor. Accordingly, the police concluded it was likely that the murderer knew the victim. The police knew that defendant was the boyfriend of the victim's granddaughter, Jackie Davis, and that he also knew the victim's son, George Lewis. The police also knew that on the night before the murder defendant was at Lewis' home, which was only about a half mile away from the victim's apartment. Furthermore, a bloody shoeprint was found on the bedding of the victim in the victim's apartment. The police had a photograph of the shoeprint, which had a tread pattern of small circles. On the day defendant was at the police station, Sergeant Minzy and Officer Harshberger observed the bottom of defendant's shoes and noticed a similar pattern. Sergeant Minzy placed fingerprint powder on the floor of the station and defendant walked through the powder. The police compared the photograph of the shoeprint left at the scene with the impressions left in the powder by defendant's shoes and observed they were similar. Moreover, the police observed that defendant concealed his right hand during voluntary questioning, which was suspicious because the nature of the crime was such that the murderer could have been injured during the crime. These pieces of information, as well as other facts within the officers knowledge at the time of the arrest would justify a fair-minded person of average intelligence in believing defendant committed the murder. *Thomas, supra* at 579; *Oliver, supra* at 374. We are not left with a definite and firm conviction that the trial court made a mistake in finding probable cause. *Muro, supra* at 747.

Affirmed.

/s/ Michael J. Talbot
/s/ Gary R. McDonald
/s/ Janet T. Neff