

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DALEPHENIA JONES,

Defendant-Appellant.

UNPUBLISHED

June 25, 1996

No. 176526

LC No. 93-005485

Before: Michael J. Kelly, P.J., and Young and N.O. Holowka,* JJ.

PER CURIAM.

Defendant was convicted of first-degree felony murder, MCL 750.316; MSA 28.548, and sentenced to life imprisonment without parole. He appeals as of right. We affirm.

Defendant killed a woman while trying to steal her money. He said he accidentally stabbed the victim during a struggle after she pulled a knife. Defendant argues that the court erred by not instructing the jury on the theory of "imperfect self defense," which may have supported a conviction on the lesser offense of manslaughter. See *People v Kemp*, 202 Mich App 318, 323; 508 NW2d 184 (1993). We disagree. Defendant did not ask that the jury be instructed on manslaughter as a lesser offense, and he expressed satisfaction with the instructions as they were read by the court. Any error was therefore waived. *People v Pollick*, 448 Mich 376, 388; 531 NW2d 159 (1995).

Defendant argues that the court erred by failing to provide a verdict form which would have allowed a conviction on robbery as the underlying offense to felony murder. We disagree. Here, defendant was charged in two counts with first-degree felony murder and second-degree murder. He did not object to the form of the Information, did not object to the court's instructions which omitted robbery as a separate offense for which a conviction could be rendered, and did not object to the jury form which omitted robbery as a separate offense. The court noted in its instructions to the jury that the verdict form included only two possible offenses, first-degree felony murder and second-degree murder. Again, defendant indicated satisfaction with the instructions and has therefore waived any error. *Pollick, supra*.

* Circuit judge, sitting on the Court of Appeals by assignment.

Finally, defendant argues that the court acted with “judicial indiscretion” by stating at sentencing that the offense required a life sentence without possibility of parole. We are puzzled by defendant’s argument. The first-degree murder statute, MCL 750.316; MSA 28.548, prescribes life imprisonment as the sentence for defendant’s offense. “Proposal B” clearly removed any possibility of parole. MCL 791.233b(o); MSA 28.2303(3)(o). Thus, the sentence imposed was neither an abuse of discretion nor, using defendant’s curious phraseology, indiscreet. Defendant’s reference to MCL 791.244; MSA 28.2314 is misplaced; that section does not grant any right of parole, but merely outlines an interview procedure to be followed so that the Governor might consider candidates for reprieves, commutations, or pardons. The fact that the interviews are conducted by members of the Parole Board does not mean that the Board has jurisdiction to grant parole for first-degree murder.

Affirmed.

/s/ Michael J. Kelly
/s/ Robert P. Young, Jr.
/s/ Nick O. Holowka