

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CARL DURAND,

Defendant-Appellant.

UNPUBLISHED

September 13, 1996

No. 181217

LC No. 94-007502

Before: Cavanagh, P.J., and Marilyn Kelly and J.R. Johnson,* JJ.

MEMORANDUM.

Defendant appeals as of right his bench trial conviction of assault with intent to commit murder, MCL 750.83; MSA 28.278. The trial court sentenced defendant to ten to thirty years' imprisonment. We affirm.

In his sole issue on appeal, defendant argues that the trial court erred in finding insufficient evidence of provocation. Defendant asserts that his conviction should therefore be reduced to assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279. We disagree. Assuming, as defendant contends, that the break-up of a seven-month relationship constitutes sufficient provocation to slit another person's throat, defendant nevertheless did not establish sufficient provocation because at least twenty-four hours passed between the break-up and the assault on defendant's former girlfriend. Thus, a reasonable cooling-off period had passed for defendant to control his passions. Cf. *People v Wofford*, 196 Mich App 275, 280; 492 NW2d 747 (1992). Accordingly, the trial court did not err in finding defendant guilty of assault with intent to commit murder.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Marilyn Kelly

/s/ J. Richardson Johnson

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