

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED

September 17, 1996

v

No. 170548

L.C.No. 93-003997

REGINALD SCOTT, a/k/a, REGINALD
OLDHAM,

Defendant-Appellant.

Before: Marilyn Kelly, P.J., and Gribbs and W. E. Collette,* JJ.

PER CURIAM.

Defendant was convicted by a jury of one count of first-degree murder, MCL 750.316; MSA 28.548, three counts of second-degree murder, MCL 750.317; MSA 28.549, one count of assault with intent to do great bodily harm, MCL 750.84; MSA 28.279, and felony-firearm, MCL 750.227b; MSA 28.424(2). He was sentenced to concurrent terms of life imprisonment, and five to ten years', and to a consecutive two year term for felony-firearm. We affirm.

There is no merit to defendant's claim that he was denied a fair trial when the prosecutor elicited testimony from a police witness who compared the crime scene with his memories of Viet Nam. This case involved a quadruple homicide and the maiming of an infant. A total of thirty-eight bullets were fired into the victims. The officer's reference to the fact that the room smelled of gunpowder and that there was blood all over the place was probably accurate, and defendant was not prejudiced by the officer's comment that the scene caused a "flashback" to Viet Nam. The officer's experience with firearms in Viet Nam was useful to show a foundation for his perceptions. *People v Daniel*, 207 Mich App 47, 57; 523 NW2d 830 (1994). We find no abuse of discretion.

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

There is no merit to defendant's claim that the trial judge erred in denying his motion for directed verdict. There was sufficient evidence to support defendant's convictions. There was evidence that defendant telephoned Kia, the mother of his child, that they argued, that defendant asked for directions and that he and codefendant loaded assault weapons into the car and drove for twenty minutes to the house where Kia was staying. Defendant and codefendant were both armed with long guns when they arrived at the house, and defendant was seen going to the upstairs portion of the home where Kia was. A witness outside the house testified that the shooting started in the upstairs and then moved to the downstairs. All the victims were killed by the same gun. The woman who was holding the injured baby was shot twelve times, and the infant suffered the loss of two fingers and gunshot wounds to the leg and shoulder.

Viewing the evidence in a light most favorable to the prosecution, there was ample evidence of defendant's premeditation and deliberation in the murder of Kia. There was sufficient evidence that defendant was the shooter, or, at a minimum, was an aider or abettor of all the murders. The evidence that Kia insulted defendant immediately before the shooting began does not constitute adequate provocation to mitigate the offense to voluntary manslaughter.

Finally, there is no merit to defendant's claim that his life sentences for second-degree murder are disproportionate. The sentencing guidelines in this case were 180 to 360 months or life. Accordingly, defendant's minimum sentence was within the guidelines' range and is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Dukes*, 189 Mich App 262, 266; 471 NW2d 651 (1991). Defendant has not presented any unusual circumstances to rebut that presumption. *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992). The trial court considered the appropriate factors, including defendant's prior opportunities to improve his conduct, his extensive juvenile record, and the nature of the crime, which involved the senseless slaughter of four people and the maiming of a baby. Defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Marilyn Kelly
/s/ Roman S. Gribbs
/s/ William E. Collette