

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ADOLPH GLASPER,

Defendant-Appellant.

---

UNPUBLISHED  
October 11, 1996

No. 186785  
LC No. 94-3534 FC

Before: Fitzgerald, P.J., and O'Connell and T.L. Ludington,\* JJ.

PER CURIAM.

Defendant appeals as of right his convictions by jury of one count of first-degree murder, MCL 750.316; MSA 28.548, two counts of assault with intent to commit murder, MCL 750.83; MSA 28.278, and three counts of possession of a firearm during the commission of a felony. MCL 750.227b; MSA 28.424(2). We affirm.

Defendant was a member of the "Gangster Disciples" youth gang. On November 13, 1994, he became involved in a verbal altercation with, apparently, members of a rival gang, the "Vice Lords." As he was leaving the scene of the dispute in an automobile driven by his acquaintance Darryl Brooks, shots were fired. Brooks later testified that the shots struck the driver's side door of the automobile.

Later that evening, defendant; his codefendant at trial, Joe Acklin; another individual; and Brooks returned to an area frequented by members of the Vice Lords. Brooks, again driving, approached a party store believed to be popular with the Vice Lords with his headlights turned off. Defendant was now armed with a Glock nine millimeter handgun, and Acklin had a .22 caliber handgun. The two opened fire indiscriminately at those standing near the store, killing Jermaine Blakely and injuring two others. A .22 caliber bullet was subsequently recovered from the body of Blakely. Defendant stood trial and was convicted of, among other things, one count of first-degree murder for

---

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

the killing of Blakely, prosecuted under an aiding and abetting theory, and two counts of assault with intent to commit murder for the wounding of the other two individuals.

On appeal, defendant first challenges the sufficiency of the evidence underlying his conviction of first-degree murder. He contends that because the evidence produced at trial clearly established that the bullet that killed Blakely was not fired from the gun that defendant was using, and because there was no evidence of a conspiracy to kill Blakely, his conviction of first-degree murder must be reversed. Defendant raised this issue below in a motion for directed verdict. When reviewing the denial of a motion for directed verdict, we consider the evidence in the light most favorable to the non-moving party and determine whether a rational trier of fact could find that the essential elements of the charged crime were proved beyond a reasonable doubt. *People v Jolly*, 442 Mich 458, 466; 502 NW2d 177 (1993).

As noted above, defendant was prosecuted under an aiding and abetting theory. “Aiding and abetting” includes all forms of assistance rendered to the perpetrator of a crime and comprehends all words and deeds that might support, encourage, or incite the commission of a crime. *People v Turner*, 213 Mich App 558, 569; 540 NW2d 728 (1995). To support a finding that a defendant aided and abetted in the commission of a crime, the prosecution must present evidence of the following: first, that the crime charged was committed; second, that the defendant performed acts or gave encouragement which assisted in the commission of the crime; and, third, that the defendant intended the commission of the crime or had knowledge that the principal intended its commission at the time he gave aid and encouragement. *People v Jones (On Rehearing)*, 201 Mich App 449, 451; 506 NW2d 542 (1993). The court may consider a wide range of factors when determining whether a defendant has aided and abetted in the commission of a crime. *Turner, supra*.

Our review indicates that the evidence was sufficient to support defendant’s conviction of first-degree murder. Defendant does not challenge the first factor set forth in *Jones*, that the crime charged was committed. With respect to the latter two factors encouragement and intent, the circumstantial evidence surrounding the offense easily supports the inferences, see *Jolly, supra, p 466*, that defendant both intended the commission of the crime and encouraged his codefendant to commit that crime: defendant and his codefendant had a common motive, revenge, and were members of the same gang; they appear to have planned the attack during the period immediately after Brooks’ automobile was fired on; both were armed; both began shooting almost simultaneously; and both reacted similarly after the crime had been committed. In light of this evidence, we find no error in the court’s denial of defendant’s motion for directed verdict.

Defendant emphasizes that he did not fire the bullet that killed Blakely. While this is true, it is immaterial. Under the present facts, even Brooks, the *driver* of the automobile, could have been convicted of first-degree murder despite the fact that he fired no shots. See *People v Anderson*, 166 Mich App 455, 474-475; 421 NW2d 200 (1988). While defendant attempts to portray the criminal episode underlying his conviction as being composed of distinct crimes – his codefendant shot Blakely; he shot the others – the evidence indicates that defendant and his codefendant conducted an indiscriminate, scattershot drive-by shooting. The underlying intent of defendant and his codefendant to

commit premeditated murder encompasses the specific acts of each in effecting that intent, and the acts of each are properly imputed to the other.

Defendant also challenges the sufficiency of the evidence underlying his convictions of assault with intent to commit murder. These convictions were predicated on the injuries sustained by the two victims who were not killed. However, ample evidence was put forth at trial to demonstrate that defendant committed these assaults with an actual intent to kill which, if successful, would make the killing murder. See *People v Lugo*, 214 Mich App 699, 710; 542 NW2d 921 (1995).

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Peter D. O'Connell

/s/ Thomas L. Ludington