

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RUTHANN IRENE MOORMAN,

Defendant-Appellant.

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UNPUBLISHED  
October 18, 1996

No. 181666  
LC No. 94-049978-FH

Before: Reilly, P.J., and Sawyer and W.E. Collette,\* JJ.

MEMORANDUM.

Defendant appeals as of right her conviction by jury of involuntary manslaughter, MCL 750.321; MSA 28.553; and delivery of less than 50 grams of heroin, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). Defendant was sentenced to consecutive sentences of 12 months to 60 months in prison for the involuntary manslaughter conviction, and 24 months to 240 months in prison for the delivery of less than 50 grams of heroin conviction. We affirm.

On appeal, defendant contends that the evidence was insufficient to support her conviction. We disagree. In reviewing a claim of insufficient evidence, this Court views the evidence in a light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

Utilizing a standard that a defendant's actions must be "the" proximate cause of harm, defendant specifically contends that the prosecution failed to establish that she was the proximate cause of David Barrett's death. We disagree. The proper test to determine proximate cause has been established by the Michigan Supreme Court as a determination of whether the defendant's conduct was "a" proximate cause of harm. *People v Tims*, 449 Mich 83, 96; 534 NW2d 675 (1995). The contributory negligence of a victim, as well as the negligent acts of a third party, while factors to consider in determining whether the defendant's negligence caused a victim's death, are not a defense. *Id.*, 97, 99. Further, the ultimate determination of proximate cause or whether an intervening cause

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

exists is a question to be answered by the jury. *People v Moss*, 70 Mich App 18, 22; 245 NW2d 389 (1976).

Here, evidence was presented that defendant procured heroin for David Barrett, the sale of which is prohibited by law, knowing that he was already intoxicated and clearly aware that he would soon be injecting it, in careless disregard of the consequences. On this evidence, a rational trier of fact could conclude that defendant was a proximate cause of Barrett's death.

Affirmed.

/s/ Maureen Pulte Reilly

/s/ David H. Sawyer

/s/ William E. Collette