

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TRAVIS ALLEN BENNETT,

Defendant-Appellant.

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UNPUBLISHED  
November 5, 1996

No. 182657  
LC No. 93-007629 FC

Before: McDonald, P.J., and Bandstra and Bosman\*, JJ.

PER CURIAM.

Defendant appeals as of right his jury trial conviction of second-degree murder, MCL 750.317; MSA 28.549, for the killing of Thomas Manning. Defendant was sentenced to thirty-five to sixty-five years' imprisonment with credit for 435 days served. We affirm.

In the early afternoon of March 28, 1993, defendant strangled to death Thomas Manning, a fellow prisoner in the Livingston County jail. This was not the first time defendant assaulted Manning. Upon first meeting Manning in December, 1992, defendant attacked him because, defendant explained, Manning was an accused child molester. During the months preceding Manning's death, defendant repeatedly told other prisoners that he would kill Manning if provided the opportunity. At trial, defendant maintained he only meant he would beat him up, and asserted he killed Manning in self-defense after Manning attempted to rape him.

Defendant raises two allegations of error, neither of which require reversal of his conviction. First, defendant contends the trial court abused its discretion in denying his request the jury be allowed to view the part of the jail in which the killing occurred. The trial court may order a jury view of a place where a material event occurred. MCR 6.414(D). Absent an abuse of discretion, we will not interfere with the court's decision. *People v King*, 210 Mich App 425; 534 NW2d 534 (1995). Using several photographs and a diagram of the crime scene, witnesses provided a sufficiently detailed description of both Manning's cell and the jail to permit the jurors to comprehend the evidence presented at trial. In light of this evidence and the inherent difficulties in conducting a jury view at a jail, we find the trial court did not abuse its discretion. The trial court gave cogent reasons for denying defendant's request.

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

*People v Rice*, 192 Mich App 240; 482 NW2d 10 (1991); *People v Crown*, 75 Mich App 206; 254 NW2d 843 (1977), rev'd on other grounds 417 Mich 908 (1983).

Defendant next argues the trial court abused its discretion in admitting a witness' testimony about his motive for cooperating with the prosecutor. Bruce Guilmette, a prisoner who resided in the same portion of the jail as defendant and Manning, testified regarding a conversation in which defendant admitted the killing was not in self-defense.<sup>1</sup> In response to the prosecutor's question about why he cooperated with authorities, Bruce Guilmette stated:

After sitting and listening to Travis the way he explained everything to me in that cell that night, my own personal observation that Travis is a very sick person and I have a daughter, a granddaughter, parents, brothers and their wives out there on the streets and that's not some place where I feel that Travis belongs.

Defendant contends this testimony should have been stricken because it was more prejudicial than probative.

While we agree with plaintiff that the evidence had some probative value because bias and interest are always relevant, *People v Morton*, 213 Mich App 331; 539 NW2d 771 (1995), we find the trial court abused its discretion in not striking the answer because the marginal probative value of the evidence was substantially outweighed by the danger of undue prejudice. *People v Fisher*, 449 Mich 441; 537 NW2d 577 (1995); *People v McElhaney*, 215 Mich App 269; \_\_ NW2d \_\_ (1996). Guilmette's personal opinion regarding defendant's propensity for violence and fear for the safety of his family was potentially prejudicial because it could influence jurors to convict out of a need to protect society. *People v Vasher*, 449 Mich 494; 537 NW2d 168 (1995).

We nevertheless conclude the error was harmless. The trial was replete with evidence of defendant's violent nature, including his admitted prior attack on Manning and rebuttal testimony by defendant's former teacher at a juvenile institution in which she opined he was a "dangerous person." Defendant does not challenge the latter testimony on appeal. Further, there was no evidence corroborating defendant's assertion of self defense. The evidence at trial revealed defendant attacked Manning at their first meeting, expressed his intent to kill Manning if provided the opportunity, and then killed him. Given the cumulative nature of Guilmette's testimony and the overwhelming evidence against defendant, we find defendant was not prejudiced by the error. *People v Rodriguez*, 216 Mich App 329; \_\_ NW2d \_\_ (1996); *People v Williamson*, 205 Mich App 592; 517 NW2d 846 (1994).

Affirmed.

/s/ Gary R. McDonald  
/s/ Richard A. Bandstra  
/s/ Calvin L. Bosman

<sup>1</sup> The preliminary testimony of Bruce Guilmette was read into evidence after he refused to testify at trial. Defendant moved to strike portions of the testimony prior to the reading.