

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN L. GOLSTON,

Defendant-Appellant.

UNPUBLISHED

December 19, 1997

No. 195505

Recorder's Court

LC No. 95-010244

Before: O'Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Defendant was involved in a motor vehicle accident causing the death of another. Following a bench trial, he was found guilty of involuntary manslaughter, MCL 750.321; MSA 28.553, and leaving the scene of an accident. MCL 257.617; MSA 9.2317. He now appeals as of right, and we affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant contends that the trial court erred in finding him guilty of involuntary manslaughter where "the defendant was bound over on the specific charge of manslaughter with a motor vehicle and the court lacked jurisdiction [over] both forms of manslaughter." Defendant is apparently under the impression that "manslaughter with a motor vehicle" constitutes an offense distinct from manslaughter. It does not. As explained in *People v McIntosh*, 400 Mich 1, 5; 252 NW2d 779 (1977), "[m]anslaughter committed with a motor vehicle is not separately defined as a crime by the common law or by statute. There is only the general crime of manslaughter (MCLA 750.321; MSA 28.553) which may, of course, be committed with a motor vehicle." See also *id.*, n 3.

Defendant was charged with committing manslaughter in contravention of MCL 750.321; MSA 28.553, he was bound over on the charge of manslaughter, *id.*, and he was convicted of manslaughter. *Id.* While the criminal complaint does state that defendant was charged with committing "Manslaughter with Motor Vehicle," it refers to MCL 750.321; MSA 28.553, as one would expect. There is no mention of a statute criminalizing specifically "Manslaughter with a Motor Vehicle." Therefore, we find defendant's contention on appeal to be without merit.

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

Affirmed.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Carole F. Youngblood