

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

WALTER WRIGHT,

Defendant-Appellee.

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UNPUBLISHED

October 23, 2003

No. 240920

Wayne Circuit Court

LC No. 01-012419

Before: Bandstra, P.J., and Hoekstra and Borrello, JJ.

MEMORANDUM.

Plaintiff appeals as of right the order granting defendant's motion to quash and dismissing a second-degree murder charge. We reverse. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

A magistrate's bindover decision is reviewed for abuse of discretion. *People v Yost*, 468 Mich 122, 126; 659 NW2d 604 (2003). A preliminary examination has the dual function of determining whether a felony was committed and whether there is probable cause to believe the defendant committed it. *Id.* At the examination, evidence from which at least an inference may be drawn establishing the elements of the crime charged must be presented. *Id.*

Second-degree murder is established when the defendant causes a death with malice and without justification. *People v Goecke*, 457 Mich 442, 463-464; 579 NW2d 868 (1998). Malice requires proof that the killing was done with an intent to kill, an intent to inflict great bodily harm, or an intent to create a very high risk of death with the knowledge that the act probably will cause death or great bodily harm. *Id.* at 464. "To support a finding that a defendant aided and abetted a crime, the prosecutor must show that (1) the crime was committed by the defendant or some other person, (2) the defendant performed acts or gave encouragement that assisted the commission of the crime, and (3) 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 Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995), overruled in part on other grounds *People v Mass*, 464 Mich 615, 627-628; 628 NW2d 540 (2001).

A crime was committed, and defendant's actions aided in its commission. The key question is whether defendant had sufficient intent. "An aider and abettor's state of mind may be inferred from all the facts and circumstances." *Turner, supra.* Defendant knew that the victim was being chased by a group of younger men when defendant stopped him and hit him.

Defendant beat the victim, and left him on the ground. Where the youths were armed with various cudgels, a reasonable juror could infer that defendant had knowledge that they would inflict great bodily harm upon the victim. The magistrate did not abuse her discretion in binding over defendant, and the circuit court erred in granting the motion to quash.

We reverse.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ Stephen L. Borrello