

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WARREN SMITH,

Defendant-Appellant.

UNPUBLISHED

January 26, 2001

No. 218914

Wayne Circuit Court

LC No. 98-005845

Before: Markey, P.J., and Whitbeck and J. L. Martlew*, JJ.

MEMORANDUM.

Defendant appeals by right his bench trial conviction for involuntary manslaughter. MCL 750.321; MSA 28.553. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant had an argument with another man living in the same rooming house. Because the victim was larger than he was, defendant obtained a knife from his room. The argument continued, and defendant showed the victim the knife. The victim began chasing defendant, and defendant stabbed the victim, causing his death. On appeal, defendant maintains that there was insufficient evidence to support a finding that he did not act in self-defense.

In determining whether sufficient evidence has been presented to sustain a conviction, a reviewing court must view the evidence in a light most favorable to the prosecution, and determine whether any rational finder of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

Self-defense is not available if the defendant is the initial aggressor. *People v Deason*, 148 Mich App 27, 31; 384 NW2d 72 (1985). Imperfect self-defense does not apply to a manslaughter charge. *Id.* In this case, the trial court could reasonably find that defendant was the initial aggressor because he made verbal threats and armed himself before the physical confrontation. Although defendant ran away from the victim, there is no clear evidence that he

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

expressed an intent to withdraw because he continued to swing a knife at the victim. *People v Kemp*, 202 Mich App 318, 323; 508 NW2d 184 (1993).

We affirm.

/s/ Jane E. Markey
/s/ William C. Whitbeck
/s/ Jeffrey L. Martlew