

Court of Appeals, State of Michigan

ORDER

People of MI v Aaron Hyde

Cynthia Diane Stephens
Presiding Judge

Docket No. 307505

Michael J. Talbot

LC No. 11-009791-01-FC

Christopher M. Murray
Judges

The Court orders that the motion for immediate consideration is GRANTED.

The application for leave to appeal is GRANTED, limited to the issues raised on appeal. MCR 7.205(D)(4). The time for taking further steps in this appeal runs from the date of the Clerk's certification of this order. MCR 7.205(D)(3).

On the Court's own motion, the proceedings are STAYED pending this appeal.

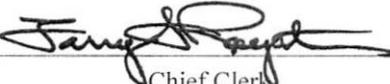
Talbot and Murray, JJ. We would peremptorily reverse the circuit court's order. The circuit court erred in ruling that there was no evidence of premeditation and deliberation and that the district court abused its discretion in binding defendant over on the charge of first-degree murder. The evidence introduced at the preliminary examination established that, before the stabbing of the victim occurred, defendant and the victim had argued in the foyer of defendant's home, that the victim left through the front door and remained on the porch, and that defendant retrieved a knife from the kitchen and returned to the foyer. A reasonable inference of intent to kill may be drawn from the use of a dangerous weapon, *People v DeLisle*, 202 Mich App 658, 672; 509 NW2d 885 (1993), and a reasonable inference of premeditation and deliberation may be drawn from defendant's actions before the stabbing, *People v Plummer*, 229 Mich App 293, 300-301; 581 NW2d 753 (1998). Defendant also had an opportunity to take a second look before returning to the foyer and engaging in the final confrontation with the victim. See *People v Gonzalez*, 468 Mich 636, 641; 664 NW2d 159 (2003). Although the witnesses in the house testified that the victim opened the storm door and reentered the home, the victim's girlfriend testified that the victim remained on the porch, and that defendant opened the storm door and began lunging the knife at the victim, who suffered three fatal stab wounds. The district court properly bound defendant over for resolution of these questions of fact by the trier of fact. See *People v Yost*, 468 Mich 122, 128; 659 NW2d 604 (2003). However, we join in the grant because we lack unanimity to issue an order of peremptory reversal.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

DEC 09 2011
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Date


Chief Clerk