

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CAPRESE D. GARDNER,

Defendant-Appellant.

UNPUBLISHED

April 15, 2003

No. 238186

Wayne County Circuit Court

LC No. 01-003494-01

Before: Gage, P.J., and Murphy and Jansen, JJ.

PER CURIAM.

Defendant was convicted by a jury of second-degree murder, MCL 750.317, felon in possession of a firearm, MCL 750.224f, and possession of a firearm in the commission of a felony (felony-firearm), MCL 750.227b. The defendant was sentenced as a habitual offender to terms of twenty-five to fifty years for second-degree murder, two to ten years for felon in possession of a firearm, and five years for felony-firearm. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The sole claim of error on appeal regards evidentiary rulings made by the trial court. Defendant contends that the trial court abused its discretion when it (1) suppressed evidence relating to motive and bias, (2) suppressed evidence that the shooting was drug related, and (3) suppressed evidence that another individual was the shooter. Evidentiary questions are revisited for an abuse of discretion. *People v Starr*, 457 Mich 490, 494; 577 NW2d 673 (1998). To warrant reversal, the result must be so violative of fact and logic that it evidences a perversity of will, a deference of judgment, or an exercise of passion or bias. *People v Snider*, 239 Mich App 593, 419; 608 NW2d 502 (2000).

MRE 402 provides that all relevant evidence is admissible except as otherwise provided by the various court rules, constitutions, and rules adopted by the Supreme Court. Relevant evidence is evidence that has any tendency to make the existence of any fact that is of consequence to the termination of the action more probable or less probable than it would be without the evidence. MRE 401; *People v Crawford*, 458 Mich 376, 388; 582 NW2d 785 (1998). Relevant evidence may be excluded if the probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. MRE 403.

Defendant contends that it was error on the part of the trial judge to suppress any evidence identifying the victim, Dewan Bibbs, and his roommate, James Wright, as individuals

involved in the drug trade. The trial judge found this evidence irrelevant as to the shooting of the victim. There was no incident of a drug dispute that occurred between Mr. Wright and the decedent, nor was there any evidence of drugs being involved in the shooting. We agree the evidence was irrelevant and collateral to the issue before the jury. Defendant attempted to blame the shooting on Mr. Wright but the jury apparently rejected that theory. Defendant was permitted to argue before the judge what the testimony would have been and there was not a single mention of a specific dispute. The proposed evidence was going to be coming in from an outside source. The court indicated that it would not be received, but stated that “if the defendant takes the stand he can give his theory.” Defendant did not testify. On this record, relevancy was not shown.

The exclusion of the evidence is within the sound discretion of the trial court. We find no abuse of discretion in the trial court’s ruling. There was no evidence from which either motive, bias, or any culpability could be gleaned from the fact that the decedent, who was fifteen years of age, and his roommate, Wright, sold drugs.

Affirmed.

/s/ Hilda R. Gage
/s/ William B. Murphy
/s/ Kathleen Jansen