

IN THE COURT OF APPEALS OF OHIO
SIXTH APPELLATE DISTRICT
LUCAS COUNTY

State of Ohio

Court of Appeals No. L-11-1175

Appellee

Trial Court No. CR0201002215

v.

Danny Patterson

DECISION AND JUDGMENT

Appellant

Decided: April 12, 2013

* * * * *

Julia R. Bates, Lucas County Prosecuting Attorney, and
David F. Cooper, Assistant Prosecuting Attorney, for appellee.

Mollie B. Hojnicky, for appellant.

* * * * *

OSOWIK, J.

{¶ 1} This is an appeal from a judgment of the Lucas County Court of Common Pleas, which found appellant guilty of one count of murder, in violation of R.C. 2903.02. Appellant was sentenced to a term of incarceration of life, with eligibility for parole commencing after 15 years. For the reasons set forth below, this court affirms the judgment of the trial court.

{¶ 2} Appellant, Danny Patterson, sets forth the following sole assignment of error:

Appellant's conviction is against the manifest weight of the evidence.

{¶ 3} The following undisputed facts are relevant to this appeal. Appellant and the victim, appellant's girlfriend, met while both were living in the Regina Manor apartment complex in Toledo, Ohio. The pair began a relationship. In July 2010, they were living together in an apartment at Regina Manor. Their relationship was tumultuous. It was often characterized by the excessive drinking of alcohol and altercations.

{¶ 4} On July 10, 2010, the victim was in the process of relocating to her own apartment. The victim had previously packed up the bulk of her possessions in anticipation of the coming move. The victim had also discontinued phone service at appellant's apartment.

{¶ 5} On July 10, 2010, the parties woke up at approximately 8:30 a.m. Shortly thereafter, they began consuming alcohol and verbal fighting ensued. The victim left the apartment for several hours. Upon her return, verbal sparring resumed. In the course of this conflict, appellant killed the victim. Appellant secured a steak knife, stabbed the victim several times in the back, smashed her head with a blunt object, and finally forced her down into the mattress and pillows of their bed. Appellant held her down for approximately three minutes until she died from suffocation.

{¶ 6} On July 13, 2010, appellant was indicted on two counts of murder, in violation of R.C. 2903.02. On June 27, 2011, the case proceeded to jury trial. At trial,

appellant conceded to killing the victim. Appellant went to great lengths to attribute blame to the victim for her own death. Appellant maintained that the victim would often convey vulgar and offensive remarks to appellant about appellant and his mother. In addition to the questionable relevance of these allegations against the deceased victim, no objective or independent evidence was furnished in support of the claims. Notably, appellant also never relayed these allegations to the investigating detective. On the contrary, appellant fabricated a story in which he claimed the victim had returned home with unexplained injuries and refused medical treatment prior to passing away. Appellant ultimately recanted and confessed to stabbing, striking and smothering the victim.

{¶ 7} In the sole assignment of error, appellant asserts that his conviction for murder was against the manifest weight of the evidence. It is well-established that in ascertaining whether a verdict was against the manifest weight of the evidence, this court serves as a “thirteenth juror.” We must review the entire record, weigh the evidence and all reasonable inferences, and ultimately conclude whether the trial court so clearly lost its way so as to create a manifest miscarriage of justice. *State v. Thompkins*, 78 Ohio St.3d 380, 678 N.E.2d 541 (1997).

{¶ 8} As applied to the instant case, appellant was convicted of murder, in violation of R.C. 2903.02. In order for the disputed conviction to be proper, the record must reflect that the weight of the evidence supports the conclusion that appellant purposely caused the victim’s death. Appellant contends that he should have been

convicted of the lesser offense of voluntary manslaughter, in violation of R.C. 2903.03. The jury was instructed on both murder and voluntary manslaughter. Upon their consideration of the opposing evidence and testimony, the jury convicted appellant of murder. In order for appellant's claim that the evidence supported a voluntary manslaughter conviction, but not murder, to be meritorious, the record must reflect by a preponderance of the evidence that appellant was acting under the influence of sudden passion or sudden rage induced by the victim's serious provocation that was reasonably sufficient to incite appellant into the use of deadly force. R.C. 2903.03.

{¶ 9} We have carefully examined and considered the record of evidence in this matter. We do not concur with appellant's claim that the evidence required a voluntary manslaughter, rather than murder, conviction. In support of his statutory claim of serious provocation rising to the level of voluntary manslaughter, appellant relies predominantly upon his own subjective and unsupported claims of enduring years of vulgar and offensive verbal treatment by the victim. In addition, appellant relies upon an unpleasant note written by the victim to appellant's mother in 2006, four years prior to appellant killing the victim. These facts and circumstances do not constitute serious provocation by the victim prior to her death.

{¶ 10} The record of evidence shows that on July 10, 2010, appellant and the victim woke up in the morning and began consuming alcohol. The record shows that the parties begin verbally sparring with one another. The record shows that the victim then left the apartment for several hours. The record shows that upon the victim's return to

the apartment, the mutual verbal sparring resumed. The record shows that appellant elected to respond to this series of events on July 10, 2010, by obtaining a steak knife, stabbing the victim multiple times in the back, striking her in the head with a blunt object, and then smothering her in a mattress and pillows until she suffocated to death.

{¶ 11} The record is devoid of objective, compelling or persuasive evidence demonstrating that the victim acted on July 10, 2010, or at any time prior to her death, in such a way that would incite a reasonable person to resort to the use of deadly force. Wherefore, we find appellant's sole assignment of error not well-taken.

{¶ 12} We find that substantial justice has been done in this matter. The judgment of the Lucas County Court of Common Pleas is affirmed. Appellant is ordered to pay the costs of this appeal pursuant to App.R. 24.

Judgment affirmed.

A certified copy of this entry shall constitute the mandate pursuant to App.R. 27. *See also* 6th Dist.Loc.App.R. 4.

Mark L. Pietrykowski, J.

JUDGE

Arlene Singer, P.J.

JUDGE

Thomas J. Osowik, J.
CONCUR.

JUDGE

This decision is subject to further editing by the Supreme Court of Ohio's Reporter of Decisions. Parties interested in viewing the final reported version are advised to visit the Ohio Supreme Court's web site at:
<http://www.sconet.state.oh.us/rod/newpdf/?source=6>.