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**STATE OF MINNESOTA
IN COURT OF APPEALS
A06-2333**

State of Minnesota,
Respondent,

vs.

Kippy G. Wilson,
Appellant.

Filed March 4, 2008
Affirmed
Connolly, Judge
John P. Smith
Cass County District Court
File No. CR 05-1715

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Considered and decided by Kalitowski, Presiding Judge; Minge, Judge; and
Connolly, Judge.

UNPUBLISHED OPINION

CONNOLLY, Judge

Following a jury trial, appellant was found guilty of second-degree intentional murder for beating a man to death. Appellant challenged his conviction on the ground of

insufficient evidence to prove the element of intent. Because the evidence is more than sufficient to support finding that the appellant intended to kill the victim, and not merely assault him, we affirm.

FACTS

On the evening of November 5, 2005, several friends were drinking and partying at a home in Cass Lake. The homeowner was not there, but her daughter, J.R., who had just been released from a treatment facility, was part of the group. Also in the group were appellant Kippy Wilson and S.D., who had met J.R. a few months earlier while she was in treatment and had been dating her.

Twice during the evening, a neighbor called the police to complain about party noise coming from the house. The police responded, but left when things quieted down.

At some point, J.R. and S.D. went to lie down in one of the bedrooms. S.D., upset about a red bandana that J.R. was wearing, began to choke her by twisting the bandana around her neck. Appellant came upon the scene, and the two men started to fight. Appellant ordered S.D. to get out of the house and began pushing him down the hall. Before reaching the door, however, S.D. fell down the stairs into the basement.

Appellant followed S.D. down the stairs, yelling at him to get out of the house. Appellant began to punch S.D. with his fists. J.R., who was still upstairs, heard the commotion and told appellant to leave S.D. alone.

J.R. testified that when she came to the top of the stairs, she saw appellant standing over S.D., who was on his knees in his boxer shorts asking appellant why he was hitting him. Appellant continued to hit S.D. in the head with his fists, and S.D.

curled up on the floor to protect himself. J.R. returned to the living room, but continued to hear S.D. tell appellant to leave him alone.

Appellant came upstairs and told J.R. to sit on the stairs. Appellant returned to the basement and resumed punching and kicking S.D.; he began to beat S.D. with a metal pole that was about four feet long. S.D. was still curled up, but J.R. no longer recognized his face because it was so swollen and bloody. J.R. again retreated to the living room, but appellant came up to get a cigarette and told her to return to the steps.

Appellant ripped the boxer shorts off S.D. and continued to berate, kick, hit, and beat him with the metal pole. S.D. now appeared to be unconscious, and J.R. again retreated to the living room. Appellant eventually passed out for the night.

When another friend came by the next morning, appellant asked him to go downstairs to see if S.D. was alive. The friend reported that S.D. was not breathing.

Later that day, appellant visited his stepmother and told her that he had “pulled a Keith Crow”¹ — that he had beaten someone up and watched him die and that it had taken a half hour. Appellant told his stepmother that he was going to burn the house down to get rid of the body and then he was going away for a long time. The stepmother called the police.

¹ Keith Crow was convicted in 2005 of aiding and abetting first-degree murder in the course of kidnapping. Crow’s victim was beaten unconscious at a party hosted by Crow, then driven to a river, murdered, and abandoned. The supreme court recently affirmed Crow’s conviction. *See State v. Crow*, 730 N.W.2d 272 (Minn. 2007).

Police found S.D.'s body in the basement, covered in his own blood. The handle from a mop was pulled from under S.D.'s body, and the ring and handle from a broken coffee pot were recovered from the basement.

After appellant spoke with his stepmother, he went to visit his half-brother in Bemidji. Appellant told his half-brother that he was in a fight in which he may have killed someone and that he was going to leave for awhile. Appellant was arrested several weeks later in North Dakota.

The Assistant Ramsey County Medical Examiner who performed the autopsy testified that S.D. suffered extensive injuries, including multiple contusions to the head, sharp force and cut injuries, blunt force injuries, and internal injuries. S.D. also sustained a laceration to his anus and rectum, likely caused by an object being inserted approximately 18 inches into his rectum. The medical examiner concluded that S.D. died from multiple blunt and sharp force injuries due to physical assault.

DECISION

When considering a challenge to the sufficiency of the evidence, this court views the evidence in the light most favorable to the verdict and conducts a “painstaking analysis” of the record to determine whether there was sufficient evidence for the jury to reach the verdict they did. *State v. Webb*, 440 N.W.2d 426, 430 (Minn. 1989). This court assumes that the jury believed the state’s witnesses and disbelieved any witnesses or evidence to the contrary. *State v. Bias*, 419 N.W.2d 480, 484 (Minn. 1988).

To support a conviction of second-degree murder, the state must prove that the defendant “cause[d] the death of a human being with intent to effect the death of that

person or another, but without premeditation.” Minn. Stat. § 609.19(1) (2004). “With intent” means that the defendant “either has a purpose to do the thing or cause the result specified or believes that the act, if successful, will cause that result.” Minn. Stat. § 609.02, subd. 9(4) (2004).

Appellant concedes that the state presented ample evidence that he intended to assault S.D. in order to stop him from strangling J.R., but he insists that no one testified that he possessed the intent to kill S.D. Therefore, he argues that the death of S.D. was the “unintended result of an intentional assault.” In contrast, the state asserts that the record is “riddled with evidence establishing appellant’s intent to kill.”

The “[d]etermination of intent is a question for the jury to decide.” *State v. Edge*, 422 N.W.2d 315, 318 (Minn. App. 1988), *review denied* (Minn. June 21, 1988). Intent is a state of mind “generally proved circumstantially — by drawing inferences from the defendant’s words and actions in light of the totality of the circumstances.” *State v. Cooper*, 561 N.W.2d 175, 179 (Minn. 1997). Direct evidence of intent is almost never available because of the subjective nature of this element of a crime. *State v. Bouwman*, 328 N.W.2d 703, 705 (Minn. 1982). But in determining intent, jurors use an objective standard and rely on their sensory perceptions, life experiences, and common sense to determine if the defendant formed the specific intent to do what he did. *Id.*

Here, appellant’s own actions during the beating strongly support the jury’s finding that appellant intended to kill S.D. J.R., an eyewitness to the events, described appellant standing over S.D. and beating him with punches, kicks, and a metal rod. J.R. also testified that appellant came upstairs two or three times during the beating, only to

return to the basement to continue it. She also testified that S.D. repeatedly asked appellant to stop hitting him and inquired why appellant was beating him.

The nature and extent of S.D.'s injuries provide further support for the jury's finding that appellant intended to kill him. The physical evidence supports an inference that appellant broke a glass coffee pot over S.D.'s head and shoved a metal pole into his rectum. The medical examiner described extensive blunt and sharp force injuries on S.D.'s body, particularly about his head, which ultimately caused his death. The severity of the beating sustained by S.D. strongly supports an inference that appellant intended to kill him.

Next, the evidence establishes that appellant knew that he had killed S.D. because the following morning he directed a friend who had come by, to check to see if S.D. was alive. Appellant later told his stepmother that he had watched S.D. die and that it had taken a half hour. This evidence, which shows that appellant suspected that he had killed S.D., strengthens the inference that he anticipated the consequences of his actions. "[T]he jury may infer that a person intends the natural and probable consequences of his actions" *Cooper*, 561 N.W.2d at 179.

Appellant's actions and statements after the beating provide additional support to infer that he intended to kill S.D. Appellant made no effort to render aid to S.D. and, instead, watched him die and then went to sleep. *See State v. Raymond*, 440 N.W.2d 425, 426 (Minn. 1989) (holding that intent to cause death could be inferred by nature and extent of wounds and by the fact that defendant left victim to bleed to death while he went home to bed). Appellant told others of his intent to leave for awhile; he told his

stepmother that he had “pulled a Keith Crow” and had beaten someone to death, and that he was going to burn the house down to get rid of the body. Appellant’s subsequent behavior and statements provided the jury with another source from which it could make inferences regarding his intent.

Appellant’s final argument is that he assaulted S.D. only for the purpose of protecting J.R. and getting S.D. out of the house. But the evidence overwhelmingly establishes that appellant’s actions went far beyond any actions necessary to protect J.R. or remove S.D. from the house. In *State v. Darris*, 648 N.W.2d 232, 236-37 (Minn. 2002), the defendant argued that the evidence only showed that the victim was beaten, but failed to establish an intent to kill; the supreme court rejected that argument and concluded that the evidence was sufficient to support the conviction for second-degree murder when the victim was pushed to the ground and struck in the head multiple times with a tire jack.

Here, appellant’s initial reason for assaulting S.D. carries little weight on the issue of intent, given the gravity of his subsequent actions. The jury’s finding that appellant acted with intent to kill S.D. is amply supported by the record, which includes appellant’s own actions and statements during the beating, the nature and extent of S.D.’s injuries, and the statements made and actions taken by appellant following S.D.’s beating and death.

The jury heard all of the evidence outlined above in reaching its decision. Viewed in the light most favorable to the conviction, that evidence allowed the jury to find appellant guilty of second-degree intentional murder.

Affirmed.