

SUPREME COURT OF LOUISIANA

96-KA-0697

STATE OF LOUISIANA

versus

LEONARD HART, JR.

KNOLL, J., dissenting.

While I agree with my colleagues that defendant did not intend to kill Mr. Young, I disagree with the majority conclusion that defendant did not intend to inflict great bodily harm upon Mr. Young, primarily because of the victim's age, disability, and living alone.

The record shows that the defendant needed \$300.00 a day to support his crack cocaine addiction. Two months before defendant burglarized Mr. Young and tied him up, defendant worked for Mr. Young for two days. This gave defendant the knowledge that his prey lived alone, was old, 83 years of age, and frail. Mr. Young was lame and walked with a cane, and had a bad heart condition.

There is a gap in the evidence as to how Mr. Young got from his bed, if indeed he was tied up in bed at all, onto the hard wood floor in his living room where he was found. The only evidence that he was tied up in bed is the defendant's own statement. The pictures of the victim in the record show that the hardwood floors in Mr. Young's living room were badly stained from body fluids that dripped from Mr. Young's wounded hands, and from his fecal and urine excretions, supporting the conclusion that he was lying there a long time. If Mr. Young walked from his bed to the spot where he was found, it cannot be explained why he could not have walked a few more feet to

his unlocked front door and out, where eventually someone would have seen him. This elderly man was sufficiently injured by defendant that he was prevented from getting up and walking just a few additional feet to his door.

The medical testimony shows that the trauma Mr. Young suffered during the burglary caused cascading medical complications, triggered by the wounds cut into his wrists. While defendant used a soft cloth to bind Mr. Young, he tied his hands so tight that it cut the blood supply to his hands, which were very swollen and black when he was found. In addition, he had no food or water for six days in a stifling hot room, and suffered from malnutrition and profound dehydration. The medical testimony shows that Mr. Young's hands were in an advanced state of necrosis (gangrene), that he suffered severe pain, and that he was complaining of severe pain in his knees just before he died. Because he was without food and water, and because of the trauma he had suffered, he quickly developed stress induced gastritis and formation of duodenal ulcers, which eventually ruptured and caused internal bleeding. When he was found, he was incoherent and very near death.

The legislature amended La.R.S. 14:30 in 1993 to include "specific intent to kill or to inflict great bodily harm upon a victim under the age of twelve or sixty-five years of age or older." In my view, this amendment supports that the very young and the aged are an especially vulnerable class of victims because they are generally weaker. It is apparent that Mr. Young need not have been bludgeoned in order to have sustained the great bodily harm he did because he was 83 years of age and in frail health. In my view, a great amount of force is not necessary to prove specific intent to kill or inflict great bodily harm on this class of victims. For these reasons, I respectfully dissent and would affirm defendant's conviction and sentence.