

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

TYKESE KEATON-BALDWIN,

Defendant-Appellee.

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UNPUBLISHED

April 29, 2021

No. 353252

Wayne Circuit Court

LC No. 19-005650-01-AR

Before: O'BRIEN, P.J., and STEPHENS and BOONSTRA, JJ.

PER CURIAM.

The prosecution appeals by leave granted<sup>1</sup> the circuit court's order affirming the district court's order granting defendant's motion to dismiss a charge of second-degree murder, MCL 750.317. We reverse and remand for further proceedings.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

On August 11, 2018, defendant's girlfriend, Brittany Collett (Collett), was found dead from multiple blunt-force traumas to her head. Defendant, accompanied by Collett and defendant's friend, Chance Gardner (Gardner), had spent the evening at a barbecue held at defendant's grandmother's home in the City of Detroit. The three left the barbeque in defendant's grandmother's Honda Civic and headed across town to defendant's grandfather Michael Baldwin's (Baldwin) house on Prairie Street. Gardner, who lived across the street from Baldwin, testified that after he and defendant exited the Civic and said their goodbyes, he headed to his home while defendant headed for Baldwin's home. Collett stayed in the car. Baldwin testified at the preliminary examination that he let defendant into his house at approximately 5:00 a.m. and that defendant used the restroom for 5 or 10 minutes and then left the house. A few minutes later, Baldwin heard "a lot of pounding on the door." He opened the door and saw defendant standing

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<sup>1</sup> *People v Keaton-Baldwin*, unpublished order of the Court of Appeals, entered June 11, 2020 (Docket No. 353252).

there shirtless, “really hysterical,” “frantic and shaking,” and sweating around his “collar.” Baldwin saw Collett on the ground next to the passenger door of the car and called 911.

Gardner testified that Collett was alive and uninjured before he went into his house, and that shortly after he went to bed he was awakened by a noise that he described as “two cars hit[ting] each other.” He saw an ambulance parked in front of Baldwin’s house. Emergency medical technician (EMT) Joshua Bradley (Bradley) testified that Collett had a large laceration extending from her mouth to her left earlobe, excessive swelling and bleeding throughout her entire face, and portions of scalp disconnected from her head. As Collett was being loaded into the ambulance, Bradley was aggressively approached by defendant, who was wearing only boxer shorts. Bradley testified that defendant smelled “very clean, like you do right when you get out of the shower, like the body wash smell is so strong on you.” Collett was pronounced dead a few hours after arriving at the hospital.

Detroit Police Officer Tiasha Horton arrived on the scene at 6:11 a.m., after the ambulance had departed. Defendant told her that he had intended to have Baldwin take him to the airport for a flight, but defendant did not have any personal identification or luggage with him. Officer Horton testified that defendant told her that he had heard noises while in Baldwin’s house, came outside, and saw Collett getting “beaten” by an unknown assailant. However, he later told Officer Horton that he merely saw Collett lying face down on the ground. Officer Horton saw blood on defendant’s left shoulder. She noticed that part of the car’s passenger side rearview mirror was broken off and that there was blood spattered on the passenger door. She also noticed an empty bottle of Crown Royal in the back seat. When Officer Horton asked defendant whether he had been wearing a shirt when the incident occurred, defendant said that he had and that the shirt was inside Baldwin’s house. However, defendant then stated that he had driven to Baldwin’s house without a shirt. Photographs taken at the police station showed cuts and scrapes on defendant’s forearms and hands. A subsequent search of Baldwin’s house revealed Collett’s blood on the bathroom door, the shower step, and the shower floor area. Photographs taken of the car showed blood on the hood, rear tire rim, the interior of the vehicle, front passenger seat, rear-quarter panel, center console, and the broken front-right rearview mirror.

At the conclusion of defendant’s preliminary examination, the district court denied the prosecution’s motion to bind defendant over on a murder charge, concluding that probable cause had not been established. The prosecution re-filed the charges and a second preliminary examination was held; the district court again dismissed the charges. The prosecution appealed the district court’s order to the circuit court, which affirmed the district court, holding that the district court did not abuse its discretion by refusing to bind defendant over for trial. This appeal followed.

## II. STANDARD OF REVIEW

We review for an abuse of discretion a district court’s decision to dismiss criminal charges. *People v Nicholson*, 297 Mich App 191, 196; 822 NW2d 284 (2012). “A trial court abuses its discretion when it selects an outcome that falls outside the range of reasonable and principled outcomes.” *People v Clark*, 330 Mich App 392, 415; 948 NW2d 604 (2019). This Court is not required to give deference to the circuit court’s appellate decision. *People v Hudson*, 241 Mich App 268, 276; 615 NW2d 784 (2000).

We review de novo questions of law, *People v White*, 331 Mich App 144, 150; 951 NW2d 106 (2020), and review factual findings for clear error, *People v Galloway*, 259 Mich App 634, 638; 675 NW2d 883 (2003). Clear error exists when an appellate court examines the record and is left with a firm conviction that a mistake has been made. *Id.*

### III. ANALYSIS

The prosecution argues that the district court erred when it dismissed the murder charge against defendant on the ground that probable cause had not been established. We agree. To bind a defendant over at a preliminary examination, a court must find probable cause that the defendant committed a felony. *People v Seewald*, 499 Mich 111; 879 NW2d 237 (2016). The probable cause standard requires “evidence of each element of the crime charged or evidence from which the elements may be inferred.” *People v Hill*, 433 Mich 464, 469; 446 NW2d 140 (1989), citing *People v Doss*, 406 Mich 90, 101; 276 NW2d 9 (1979). This standard is “not a very demanding threshold.” *People v Harlan*, 258 Mich App 137, 145; 669 NW2d 872 (2003). Probable cause need only lead “a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused’s guilt.” *People v Anderson*, 501 Mich 175, 184; 912 NW2d 503 (2018), citing *People v Yost*, 468 Mich 122, 126; 659 NW2d 604 (2003). In fact, a court may bind a defendant over even “while personally entertaining some reservations of his guilt.” *Yost*, 468 Mich at 126.

The probable cause standard does not require a party to prove guilt beyond a reasonable doubt. *Id.* Conflicting evidence does not mean that the court should dismiss the case; rather, such conflicts are for the trier of fact and indicate that “the defendant should be bound over.” *People v Fiedler*, 194 Mich App 682, 693; 487 NW2d 831 (1992), citing *People v Cotton*, 191 Mich App 377, 384; 478 NW2d 681 (1991). If probable cause is shown, the court must bind the defendant over. MCL 766.13; *Doss*, 406 Mich at 100. “Circumstantial evidence and reasonable inferences arising from the evidence are sufficient to support a bindover.” *People v Terry*, 224 Mich App 447, 451; 569 NW2d 641 (1997), citing *People v Whipple*, 202 Mich App 428, 431; 509 NW2d 837 (1993).

The elements of second-degree murder are: (1) a death, (2) caused by an act of the defendant, (3) with malice, and (4) without lawful justification or excuse. MCL 750.317; *People v Smith*, 478 Mich 64, 70; 731 NW2d 411 (2007), citing *People v Goecke*, 457 Mich 442, 464; 579 NW2d 868 (1998). “Malice is defined as the intent to kill, the intent to cause great bodily harm, or the intent to do an act in wanton and willful disregard of the likelihood that the natural tendency of such behavior is to cause death or great bodily harm.” *Goecke*, 457 Mich at 464, citing *People v Aaron*, 409 Mich 672, 728; 299 NW2d 304 (1980). To establish second-degree murder, the prosecution does not need to prove that the defendant intended to kill the victim, but rather that the defendant committed an act that was in “obvious disregard of life-endangering consequences.” *People v Werner*, 254 Mich App 528, 531; 659 NW2d 688 (2002).

It is undisputed that Collett died as a result of multiple blunt force traumas to the head, and that defendant presented no evidence or argument concerning lawful justification. Therefore, only the second and third elements of second-degree murder (i.e., defendant’s identity as the actor who caused Collett’s death and whether he acted with malice) were at issue at the preliminary examination.

The second element of second-degree murder requires that the death be caused by an act of the defendant. *Smith*, 478 Mich at 70. The evidence presented, while circumstantial, was sufficient to establish probable cause that Collett's death was caused by an act of defendant. "[C]onflicting statements tend to show a consciousness of guilt and are admissible as admissions." *People v Unger*, 278 Mich App 210, 226; 749 NW2d 272 (2008), citing *People v Cowell*, 44 Mich App 623, 625; 205 NW2d 600 (1973).

In this case, defendant made numerous inconsistent and conflicting statements concerning the events of that morning; in addition to being inconsistent among themselves, these statements contradicted the statements of other witnesses at several points. Defendant gave various inconsistent accounts of how he found Collett when he first left Baldwin's house. He first told Officer Horton that he came out of Baldwin's house and witnessed her being beaten by an unknown person, then later told Officer Horton that he merely saw her lying face down. Both of these accounts also contradict the EMT's version of events; Bradley testified that Baldwin was the only one present outside with Collett when he arrived, that defendant came outside after the ambulance arrived, wearing only boxer shorts and smelling strongly of body wash, and that defendant aggressively confronted him. Defendant also initially told Officer Horton that he tried to help Collett after discovering her lying on the ground, but later stated that he "instantly" went inside to get Baldwin and "didn't really even check on her."

Defendant's account is further weakened by his inconsistency regarding what he was wearing that morning. When the EMTs arrived, defendant was wearing only a pair of boxer shorts. But when Officer Horton arrived on the scene, defendant was wearing a pair of cargo shorts. When Officer Horton asked defendant whether he had been wearing a shirt when the incident occurred, defendant said that he had and that the shirt was inside Baldwin's house. However, defendant then stated that he had driven to Baldwin's house shirtless.<sup>2</sup> Later that morning, defendant was wearing a zip-up sweatshirt. Baldwin said that he had given defendant the sweatshirt, but defendant claimed that he put the sweatshirt on because he was cold. These contradictions cast doubt on defendant's story, *Unger*, 278 Mich App at 226, and permit the inference that defendant changed his clothes and showered after beating Collett, in an effort to hide evidence of his guilt.

This inference is bolstered by the fact that Collett's blood was found on the shower curtain, the shower step, and other places in Baldwin's bathroom. No evidence was presented that Baldwin or Collett went into the bathroom during the relevant time period. Moreover, Baldwin testified that defendant had blood on him when he returned to the house, but no blood was noticed on defendant by either Bradley or Officer Horton; Bradley also noted that defendant smelled "clean," like he had just showered or washed. This evidence suggests that defendant went inside after the incident and cleaned Collett's blood from his body, in the process getting blood on and around the shower. Although circumstantial in nature, this evidence "and reasonable inferences arising from the evidence are sufficient to support a bindover." *Terry*, 224 Mich App at 451.

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<sup>2</sup> Baldwin's testimony about defendant's appearance when he returned to his house further complicates the picture; he testified that defendant was sweaty "around the collar" but later testified that defendant was not wearing a shirt.

This evidence, when viewed in the aggregate, casts significant doubt on defendant's version of the events and is sufficient to lead a person of "ordinary prudence and caution to conscientiously entertain reasonable belief of the accused's guilt." *Anderson*, 501 Mich at 184. Particularly in light of the fact that probable cause is "not a very demanding threshold," *Harlan*, 258 Mich App at 145, the evidence presented was sufficient to establish probable cause concerning the second element of second-degree murder.

The third element of second-degree murder requires that the defendant have acted with malice. *Smith*, 478 Mich at 70. "Malice or intent to kill may be inferred from the acts of the defendant." *People v Thomas*, 85 Mich App 618, 624; 272 NW2d 157 (1978). See also *People v Mackey*, 168 Mich App 154, 157; 423 NW2d 604 (1988). "Malice is defined as the intent to kill, the intent to cause great bodily harm, or the intent to do an act in wanton and willful disregard of the likelihood that the natural tendency of such behavior is to cause death or great bodily harm." *Goecke*, 457 Mich at 464. This definition does not require the prosecution to prove that the defendant acted with the specific intent to kill the victim, because it is sufficient if the defendant committed an act that was intended to cause great bodily harm or was committed in "obvious disregard of life-endangering consequences." *Werner*, 254 Mich App at 531.

The evidence in this case strongly suggests that the harm caused to Collett was done, if not with an intent to kill or cause great bodily harm, in obvious disregard of life-endangering consequences. Bradley observed that Collett was struggling to breathe, had a large laceration from her mouth to her left earlobe, excessive swelling and bleeding throughout her entire face, and portions of scalp disconnected from her head. The laceration was so deep that Dr. Carl Schmidt, the medical examiner, could see fat coming out of the cut. Dr. Schmidt testified that it was "easy to say" that Collett's injuries were intentionally inflicted. The severity of a victim's injuries can be used to infer malice. *Thomas*, 85 Mich App at 624. The severity of the injuries inflicted on the victim in this case support a finding of malice. *Werner*, 254 Mich App at 531. To the extent the district court found that probable cause had not been established that defendant had acted with malice, it erred.

While the evidence supporting defendant's identity as the perpetrator of the crime and state of mind was circumstantial, circumstantial evidence is sufficient to find probable cause. *Terry*, 224 Mich App at 451. In addition, the circumstantial evidence presented in this case easily leads a person of "ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused's guilt." *Anderson*, 501 Mich at 184. In other words, the facts are sufficient to establish probable cause that defendant committed the crime of second-degree murder, which is all that is required to bind defendant over at a preliminary examination. The evidence may or may not definitively prove that defendant committed the crime, but that decision is not necessary at the preliminary examination; it is for the trier of fact. Therefore, defendant should have been bound over. *Fiedler*, 194 Mich App at 693. The district court abused its discretion by failing to do so.

We note that the district court, in declining to bind over defendant, made some statements that were inaccurate representations of the evidence that had been presented. For example, the district court stated that defendant's hands had not been injured, suggesting that he could not have carried out the severe beating of Collett; however, photographs taken of defendant's hands at the police station in fact show several cuts and scrapes on defendant's forearms and hands. The district court also stated that blood was only found on the exterior, not the interior, of the car. However,

photographs taken of the car after impoundment show that blood was spattered on the interior of the vehicle, including the front-passenger seat and center console. The district court's factual findings were clearly erroneous, *Galloway*, 259 Mich App at 638, and further support our conclusion that the court's decision was outside the range of principled outcomes, *Clark*, 330 Mich App at 415.

For all of these reasons, the evidence presented at the preliminary examination was sufficient to establish probable cause that defendant committed the crime of second-degree murder. *Anderson*, 501 Mich at 184; *Hill*, 433 Mich at 469. Because a showing of probable cause means that a court must bind the defendant over, MCL 766.13, the district court abused its discretion when it declined to do so. *Clark*, 330 Mich App at 415.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Colleen A. O'Brien  
/s/ Cynthia Diane Stephens  
/s/ Mark T. Boonstra