

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

VINCEL MCQUIEL LEWIS,

Defendant-Appellee.

UNPUBLISHED

January 6, 2022

No. 354997

Wayne Circuit Court

LC No. 19-004361-01-FC

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

VINCEL MCQUIEL LEWIS,

Defendant-Appellee.

No. 354998

Wayne Circuit Court

LC No. 19-009159-01-FC

Before: CAVANAGH, P.J., and SERVITTO and M. J. KELLY, JJ.

PER CURIAM.

In these consolidated appeals,¹ the prosecution appeals as of right the trial court order granting defendant Vincel Lewis’s motion to quash the information and dismiss two charges of second-degree murder, MCL 750.317. We affirm.

¹ See *People v Lewis*, unpublished order of the Court of Appeals, entered October 6, 2020 (Docket Nos. 354997, 354998).

I. BASIC FACTS

On April 9, 2019, Laquita Durant lost control of the vehicle she was driving, crossed the center line, and struck a tree. Both Durant and her passenger, Larry Hurst, were killed as a result. The police received a tip that the crash was an “intentional accident,” and their investigation led them to Lewis. Although the exact nature of Lewis’s relationship with Durant is unclear, the record reflects that at some point they were married, but at the time of the crash, they were no longer in a relationship.

When questioned by the police, Lewis admitted that, around midnight on April 9, he had seen a vehicle that he believed might belong to Durant. He followed it, noting that the passenger was a male that he did not know. After he sped up behind the vehicle, Durant slammed on her brakes and then resumed a regular speed. Eventually, she stopped. Lewis got out of his vehicle and approached the passenger door of Durant’s vehicle. He stated that Hurst said, “go, go, go, go, go,” and that Durant then sped off at approximately 90 miles per hour. Lewis returned to his vehicle and chased after her. When she lost control of the vehicle, he continued driving. He said that after driving a couple blocks, he returned to the scene and saw that Durant’s vehicle was on fire and there was a crowd around it.

At the preliminary examinations, the prosecution presented Lewis’s statement related to the crash. They also introduced evidence that the vehicle he had been driving had been taken by Lewis from his employer, Nexen Logistics, without permission. He returned the vehicle after Durant’s crash. A dispatch manager for Nexen testified that after the vehicle was returned, he noticed that its front bumper was scuffed up. A police detective who examined the vehicle stated that the “dead center” of the front bumper was pushed in and had some “rub off.” The detective downloaded the crash data retrieval (CDR) report from the vehicle. According to the CDR, there was a nondeployment event for the vehicle on April 9, 2019.² Although there were no timestamps as to when the event occurred, the CDR report indicated that in the five seconds before the event, the vehicle was traveling between 88 and 93 miles per hour and the accelerator pedal was “100% full” from 2.5 to 1.5 seconds before the event. Nevertheless, the CDR report did not include any evidence that the event specifically occurred between the van and Durant’s vehicle. Additionally, security footage from a building near the crash did not show any contact between Lewis’s vehicle and Durant’s vehicle.

There were multiple preliminary examinations in this case. After the first examination, the district court bound Lewis over to stand trial for Hurst’s death. However, because there was no evidence as to Durant’s cause of death, the district court dismissed without prejudice the charge relating to her death. The prosecution again charged Lewis with second-degree murder and, at the second preliminary examination, presented the medical examiner’s report showing Durant’s cause of death. The district court then bound Lewis over to the circuit court to stand trial for Durant’s death.

Lewis filed a motion to quash the information. The circuit court determined that the district court abused its discretion by binding Lewis over on the charges because the prosecution’s

² A nondeployment event is an event of impact in which the airbags were not deployed.

evidence failed to establish that Lewis's actions caused the deaths. As a result, the circuit court granted the motion to quash and remanded the case for further examination in the district court. On remand, the district court held a final preliminary examination. Following that examination, the district court again found that there was probable cause to bind Lewis over for trial on both charges.

Lewis filed a second motion to quash, again arguing that there was insufficient evidence to show that he caused the deaths of Durant and Hurst. The circuit court agreed, granted the motion to quash, and dismissed the charges. This appeal follows.

II. MOTION TO QUASH

A. STANDARD OF REVIEW

The prosecution argues the circuit court erred in finding the district court abused its discretion by binding Lewis over for trial. "A circuit court's decision to grant or deny a motion to quash charges is reviewed de novo to determine if the district court abused its discretion in binding over a defendant for trial." *People v Jenkins*, 244 Mich App 1, 14; 624 NW2d 457 (2000). "An abuse of discretion occurs when the district court's decision falls outside the range of principled outcomes." *People v Fairey*, 325 Mich App 645, 649; 928 NW2d 705 (2018) (quotation marks and citation omitted).

B. ANALYSIS

"The purpose of a preliminary examination is to determine whether there is probable cause to believe that a crime was committed and whether there is probable cause to believe that the defendant committed it." *People v Perkins*, 468 Mich 448, 452; 662 NW2d 727 (2003). To establish probable cause, the evidence offered must be "sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused's guilt." *People v Anderson*, 501 Mich 175, 178; 912 NW2d 503 (2018) (quotation marks and citation omitted). This evidence must be provided for "each element of the crime charged." *Id.* at 181-182 (citation omitted). "Evidence supporting that the defendant perpetrated the crime may be circumstantial, but must nevertheless demonstrate reasonable grounds to suspect the defendant's personal guilt." *Fairey*, 325 Mich App at 649.

The elements of second-degree murder are "(1) a death, (2) the death was caused by an act of the defendant, (3) the defendant acted with malice, and (4) the defendant did not have lawful justification or excuse for causing the death." *People v Bailey*, 330 Mich App 41, 46; 944 NW2d 370 (2019) (quotation marks and citation omitted). Here, the circuit court determined that the district court abused its discretion when it bound Lewis over on the second-degree murder charges on the basis that the prosecution failed to establish Lewis was the proximate cause of the crash.

There are two forms of causation: factual and proximate. *People v Czuprynski*, 325 Mich App 449, 461; 926 NW2d 282 (2018). "Factual causation exists if a finder of fact determines that 'but for' defendant's conduct the result would not have occurred." *Id.* "Proximate causation is a legal construct designed to prevent criminal liability from attaching when the result of the defendant's conduct is viewed as too remote or unnatural." *Id.* Proximate cause requires the harm to the victim "be a direct and natural result of the defendant's actions." *People v Schaefer*, 473

Mich 418, 436; 703 NW2d 774 (2005) (quotation marks and citation omitted). To determine whether a victim's harm was the direct and natural result of a defendant's actions, a court must "examine whether there was an intervening cause that superseded the defendant's conduct such that the causal link between the defendant's conduct and the victim's injury was broken." *Id.* at 436-437. "If an intervening cause did indeed *supersede* the defendant's act as a legally significant causal factor, then the defendant's conduct will be deemed a proximate cause of the victim's injury." *Id.* at 437. To determine whether an intervening cause is a superseding cause that severs the causal link, a court must determine "whether the intervening cause was foreseeable based on an objective standard of reasonableness." *Id.* "If it was reasonably foreseeable, then the defendant's conduct will be considered a proximate cause." *Id.* "If, however, the intervening act by the victim or a third party was not reasonably foreseeable—e.g., gross negligence or intentional misconduct—then generally the causal link is severed and the defendant's conduct is not regarded as a proximate cause of the victim's injury or death." *Id.* at 437-438. Gross negligence "means wantonness and disregard of the consequences which may ensue, and indifference to the rights of others that is equivalent to a criminal intent." *Id.* at 438.

The prosecution argues that the evidence shows that Lewis unrelentingly chased Durant while driving upwards of 90 miles per hour before his vehicle made contact with hers, causing it to crash into a tree and explode. There is, however, insufficient evidence to support a finding that Lewis's vehicle made contact with Durant's before the crash. The surveillance video does not show any contact between the two vehicles in the moments immediately preceding the crash. Moreover, the CDR report only supports an inference that, at an unknown time on April 9, 2019, the vehicle that Lewis was driving was involved in a nondeployment event. It can be inferred from the damage to the vehicle that the event involved contact between the front bumper of Lewis's vehicle and another object. However, there is no evidence linking the damage on Lewis's front bumper with damage on the rear of Durant's vehicle. Thus, although the nondeployment event is consistent with the prosecution's theory that Lewis hit her vehicle, there is no way to reasonably infer that, because Lewis's vehicle was involved in an event resulting in minor damage to his front bumper, he must have hit Durant's vehicle just before the crash.

The remaining evidence also fails to show that Durant was the proximate cause of the crash. Instead, it shows that he observed Durant's vehicle and began following her. In response to a vehicle following her, Durant slammed on the brakes and then sped away. She eventually stopped and Lewis approached the passenger side. There is no evidence that he made any verbal threats, that he displayed a weapon, or that Durant recognized him. Rather, as he approached the passenger side, Hurst shouted at Durant to go. In response to that command, Durant sped away, eventually reaching approximately 90 miles per hour. Her driving was erratic. At the time, her blood alcohol level was 0.032 and she had marijuana in her system. Thus, it was Durant's independent actions—driving at a high rate of speed while high and intoxicated—that were a superseding cause that led to her crashing the vehicle. Additionally, because no action taken by Lewis made the crash reasonably foreseeable, Durant's actions constituted both an intervening and superseding cause that severed the causal link between Lewis's actions and the crash. See *Id.* at 436-437.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Michael J. Kelly

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SERVITTO, J (*dissenting*)

I respectfully dissent.

The probable cause standard applicable at a preliminary examination is not a high one. *People v Harlan*, 258 Mich App 137, 145; 669 NW2d 872 (2003). “[T]he proofs adduced must only establish probable cause to believe that a crime was committed and probable cause to believe that the defendant committed it.” *People v Goecke*, 457 Mich 442, 469; 579 NW2d 868 (1998). Where the evidence conflicts or raises reasonable doubt about the defendant’s guilt, the magistrate must bind a defendant over for trial. *People v Yost*, 468 Mich 122, 128; 659 NW2d 604 (2003). I believe that in this matter, there was sufficient evidence presented at the preliminary examinations to bind defendant over for trial as charged.

Evidence was presented at the preliminary examinations that defendant was driving a U-Haul van he had taken without permission from his employer late at night. Noticing a vehicle that he thought his estranged wife, Laquita Durant, was driving, defendant began following the vehicle. Defendant realized there was a man in Durant's passenger seat and sped up behind the vehicle. Defendant continued pursuing Durant until she stopped her vehicle. Defendant stopped the van, got out, and rushed to the passenger door. However, before defendant could get there, he heard the passenger say "go, go, go, go, go," and Durant sped off at approximately 90 miles per hour. Defendant got back in the van and gave chase between 88 and 93 miles per hour, allegedly maintaining one car's length behind Durant's vehicle. Defendant admitted he was drunk and high and angry at Durant when he was chasing her vehicle. Because Durant continued to flee from defendant, it can be inferred that she was afraid of him or at least wanted to avoid having a confrontation/contact with her estranged spouse. Durant, having been in a relationship with defendant, was in the best position to know if she would be placed in danger if she interacted with defendant or if her best cause of action was to try to get away from him.

There was also evidence presented that after the accident, the front bumper of the van was pushed in and had some "rub off" where no damage had been there previously. The crash data retrieval report from the van showed an event on the date of the accident where the airbags did not deploy, but where, in the five seconds before the event, the van was traveling between 88 and 93 miles per hour and the accelerator pedal was "100% full" from 2.5 to 1.5 seconds before the event. Although a surveillance video does not show contact between defendant and Durant's vehicle immediately before the accident, that does not mean that defendant did not make contact with the rear of Durant's vehicle at some time before Durant swerved and hit the tree or outside of the surveillance video's camera. Defendant could have hit the back of Durant's vehicle a minute or two before the accident and Durant may have continued to speed away to avoid another, more significant contact. This is a reasonable inference, given the damage to defendant's van and evidence that defendant drove past Durant's crashed vehicle immediately after it crashed, indicating defendant was quite close to the vehicle when it crashed.

Defendant admitted being drunk and angry with Durant and it is uncontested that he chased her vehicle at a high rate of speed until the crash. The above, coupled with damage to the front bumper of the van after the accident, in my opinion constitutes sufficient circumstantial evidence and reasonable inferences therefrom to bind defendant over as charged. See, e.g. *People v Henderson*, 282 Mich App 307, 312; 765 NW2d 619 (2009). I would therefore reverse the trial court's decision on defendant's motion to quash.

/s/ Deborah A. Servitto