STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED August 27, 2013
v	No. 306599 Oakland Circuit Court
TOMMIE GENE THREATT, Defendant-Appellant.	LC No. 2011-236324-FC

Before: MURPHY, C.J., and MARKEY and RIORDAN, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529, felon in possession of a firearm, MCL 750.224f, assault with intent to do great bodily harm less than murder, MCL 750.84, third-degree fleeing or eluding a police officer, MCL 750.479a(3), and three counts of possession of a firearm during the commission of a felony, second offense, MCL 750.227b. The trial court sentenced defendant as a fourth habitual offender, MCL 769.12, to concurrent prison terms of 35 to 60 years for the armed robbery conviction, 5 to 20 years for the felon-in-possession conviction, 10 to 20 years for the assault conviction, and 7 to 20 years for the fleeing or eluding conviction, to be served consecutive to three concurrent five-year terms of imprisonment for the felony-firearm convictions. Defendant appeals as of right. We affirm defendant's convictions, but vacate his sentences and remand for resentencing.

Defendant's convictions arise from his participation in the robbery of a Royal Oak Metro PCS store on November 12, 2010. The prosecutor presented evidence that defendant and an associate, Willie Kirksey, Jr., entered the store, after which defendant approached the store's owner, Lorenzo Savaya, requesting to see a cell phone. Defendant ultimately brandished a handgun and took from Savaya's possession nearly $800 and credit card receipts. Defendant then directed Savaya to the back room and instructed him to open a filing cabinet. While moving a mattress that was blocking the lower cabinet drawer, Savaya was able to flee from the store and obtain assistance. Defendant and Kirksey fled the scene in a red Cadillac, which defendant was driving. As police officers located and approached the car, defendant sped away. During the ensuing pursuit, defendant stopped the car, leaned out the window, and pointed a silver gun at the officers' car before resuming flight. Shortly thereafter, defendant stopped the car again, pointed a different gun toward the police car, and fired two shots. As the chase continued, a second pair of shots was again fired in the direction of the officers. The police eventually immobilized the Cadillac by ramming and pushing it off the street. A nine-millimeter gun and a

brown coat containing money and credit card receipts from the cell phone store were recovered from inside the Cadillac. A .45 caliber handgun was found on the sidewalk. At trial, defendant admitted his presence inside the Metro PCS store, but denied committing a robbery. He claimed that he was merely collecting a gambling debt from Savaya. Defendant admitted fleeing from the police and shooting at the patrol car's tire, but denied aiming at anyone or intending to commit murder.

I. WAIVER OF COUNSEL

Defendant argues that the trial court improperly permitted hybrid representation without first obtaining a valid waiver of his right to counsel. We disagree. As defendant acknowledges, he never requested that the trial court allow him to represent himself at trial. Therefore, this issue is not preserved and we review the issue for plain error affecting substantial rights. *People v Carines*, 460 Mich 750, 752-753, 763-764; 597 NW2d 130 (1999).

The Sixth Amendment of the United States Constitution explicitly guarantees a defendant in a criminal case the right to the assistance of counsel and implicitly guarantees the right of self-representation. US Const, Am VI; *Faretta v California*, 422 US 806, 818-832; 95 S Ct 2525; 45 L Ed 2d 562 (1975). "[A] defendant has a constitutional entitlement to represent himself or to be represented by counsel-but not both." *People v Dennany*, 445 Mich 412, 442; 519 NW2d 128 (1994). "[T]he right of self-representation and the right to counsel are mutually exclusive[;] a defendant must *elect* to conduct his own defense voluntarily and intelligently, and must be made aware of the dangers and disadvantages of self-representation in order to proceed pro se." *People v Russell*, 471 Mich 182, 189; 684 NW2d 745 (2004) (citations and quotation marks omitted). Before a defendant may represent himself, the trial court must determine that: (1) the defendant's request is unequivocal; (2) the defendant is asserting his right knowingly, intelligently, and voluntarily; and (3) the defendant's self-representation will not disrupt, unduly inconvenience, and burden the court. *Id.* at 190. In addition, pursuant to MCR 6.005, the trial court has a duty to inform the defendant of the charge and penalty he faces, advise him of the risks of self-representation, and offer him the opportunity to consult with retained or appointed counsel. MCR 6.005(D)(1).

Self-representation and representation by counsel are not a defendant's only options. "'Hybrid representation' describes an arrangement whereby both the defendant and his attorney would conduct portions of his trial and share joint presentation of his defense, while the defendant retains ultimate control over defense strategy." *Dennany*, 445 Mich at 440 n 17. A defendant does not have a constitutional right to hybrid representation but a trial court in its discretion may allow it. *Id.* at 441-443. This Court has noted that "allowing hybrid representation does not compromise a defendant's right to proceed in propria persona." *People v Kevorkian*, 248 Mich App 373, 421; 639 NW2d 291 (2001).

Contrary to what defendant asserts, the record does not demonstrate that the trial court permitted hybrid representation, or that defendant engaged in such representation. On the first day of trial, defense counsel advised the trial court that he was defendant's second appointed attorney. The trial court subsequently denied defendant's request for substitute counsel and advised defendant that he had the right to represent himself. As defendant acknowledges, he

never requested that he be permitted to represent himself at trial. Rather, defense counsel appeared on behalf of defendant throughout the bench trial.

At the beginning of trial, defense counsel gave defendant's opening statement. Before the first witness, Savaya, was called, defendant, who was participating in the trial via closed circuit television, asked if he would be allowed to present questions for his attorney to ask Savaya. In response to the trial court's inquiry, defense counsel indicated that he was agreeable to that procedure. After the direct examination of Savaya, defense counsel asked defendant if he had any questions, and the trial court asked defendant if he had questions that he wanted to ask "through [his] attorney." Defendant asked a couple of questions before defense counsel intervened and advised defendant to "[l]et me ask him some questions. I want you to listen to all the questions and then if you have any others, let me know." Defense counsel proceeded to cross-examine Savaya at some length, with only a few inconsequential questions asked by defendant. Early on, when defendant interrupted defense counsel's questioning, defendant did not conduct cross-examination, but rather attempted to offer his own version of the events. In response, the trial court and defense counsel advised defendant that he would have an opportunity to testify if he desired. When defendant again attempted to offer his own version of the events, defense counsel stopped him. The court then asked defendant if he wanted to testify "on the advice of counsel," noting that it was his decision. Defendant chose to testify at that point, responding only to Savaya's testimony, and defense counsel presented defendant's testimony by conducting direct examination. After defendant's testimony, the three police officers who were involved in the pursuit testified. Defense counsel cross-examined Officer James Wern with no questions from defendant. Defense counsel also cross-examined Officer Oaks and Sgt. Donald Scher, and defendant asked no questions of either officer. After defense counsel cross-examined Detective Keith Spencer, who photographed the scene where defendant's Cadillac had stopped, defendant asked that officer a couple of questions. Defense counsel solely handled the cross-examination of the last two witnesses, Deputies Robert Koteles and Robert Charlton, and counsel thereafter gave defendant's closing argument.

As the record demonstrates, defendant did not express any desire to waive his right to counsel and to represent himself, or even to serve as co-counsel, but rather sought permission only to pass questions to defense counsel. Although it appears that the trial court gave defendant some leeway to directly ask some questions in this bench trial, defendant did not proceed without the assistance of counsel when he briefly questioned two witnesses because counsel remained completely involved, intervened, and directed defendant. Defendant performed no core functions and relied entirely on counsel's representation. Thus, there was no hybrid representation arrangement in which defendant ever expressed a desire to represent himself, even in part. Consequently, there was no reason for the trial court to secure a waiver of the right to counsel.

II. WAIVER OF JURY TRIAL

Defendant next argues that his jury waiver was invalid because it was not knowingly and voluntarily made. We disagree.

"The adequacy of a jury trial waiver is a mixed question of fact and law." *People v Cook*, 285 Mich App 420, 422; 776 NW2d 164 (2009). In order for a waiver of the constitutional right

to a jury trial to be valid, it must be both knowingly and voluntarily made. *Id.* A trial court's determination that a defendant validly waived his right to a jury trial is reviewed for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997). The procedure for securing a proper jury trial waiver is set forth in MCR 6.410(B), which provides:

> Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. The court must also ascertain, by addressing the defendant personally, that the defendant understands the right and that the defendant voluntarily chooses to give up that right and to be tried by the court. A verbatim record must be made of the waiver proceeding.

"By complying with the requirements of MCR 6.402(B), a trial court ensures that a defendant's waiver is knowing and voluntary." *Cook*, 285 Mich App at 422.

The record shows that defendant's jury waiver complied with MCR 6.402(B). Further, the colloquy between defendant and the trial court clearly indicates that defendant understood his right to jury trial and voluntarily waived that right. The trial court advised defendant in open court that he had a constitutional right to a jury trial. The court addressed defendant personally, asking him if he wished to waive his right. Defendant answered in the affirmative, and acknowledged that his waiver was voluntary. In addition, the lower court record contains a written waiver of defendant's right to a jury trial, which defendant stated he executed freely and voluntarily. Given this factual record, the trial court did not clearly err in concluding that defendant knowingly and voluntarily waived his right to a jury trial.

Defendant contends that his waiver was invalid because the trial court expressed concern about his competency. While noting that defendant was disruptive and failed to talk coherently on "some things," the trial court concluded that defendant was articulate. Further, the fact that defendant chose to be disruptive at times does not establish that he was not competent to waive his right to a jury trial. As aptly noted by the prosecutor, the record establishes that defendant was coherent and focused on his own representation when it suited his needs. Further, defense counsel and the trial court acknowledged that defendant was referred for a forensic examination, but it was not performed because defendant would not cooperate.

Defendant also suggests that the trial court should not have accepted his jury waiver because the court handled codefendant Kirksey's trial. Defendant does not explain how that fact affected his ability to voluntarily and knowingly waive his right to a jury trial. Moreover, there is no basis in the record for concluding that the trial court's prior familiarity with the case affected its bench trial verdict. "A judge, unlike a juror, possesses an understanding of the law which allows him to . . . decide a case based solely on the evidence properly admitted at trial." *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). There is nothing in the record, and defendant does not point to anything, to suggest that the trial court improperly considered anything from codefendant Kirksey's trial in reaching its verdict.

III. SUFFICIENCY OF THE EVIDENCE

Defendant argues that his conviction for assault with intent to do great bodily harm less than murder must be vacated because there was insufficient evidence that he intended a serious injury of an aggravated nature. We disagree. We review a challenge to the sufficiency of the evidence de novo. *People v Martin*, 271 Mich App 280, 340; 721 NW2d 815 (2006). We will find evidence sufficient to uphold a conviction if, when viewed in the light most favorable to the prosecution, a reasonable trier of fact could have found the elements of the charged crime proven beyond a reasonable doubt. *People v Reese*, 491 Mich 127, 139; 815 NW2d 85 (2012). Witness credibility is for the trial court, as the trier of fact, to decide in a bench trial. *People v Jackson*, 178 Mich App 62, 65; 443 NW2d 423 (1989).

"Assault with intent to commit great bodily harm less than murder requires proof of (1) an attempt or threat with force or violence to do corporal harm to another (an assault), and (2) an intent to do great bodily harm less than murder." *People v Parcha*, 227 Mich App 236, 239; 575 NW2d 316 (1997). The offense is a specific intent crime and requires that the defendant intended to inflict serious injury of an aggravated nature. *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005). An actor's intent may be inferred from all of the facts and circumstances, and because of the difficulty in proving an actor's state of mind, minimal circumstantial evidence is sufficient. *People v Harverson*, 291 Mich App 171, 178; 804 NW2d 757 (2010).

The prosecution presented the testimony of three police officers who stated that, during the police pursuit, defendant stopped his car, leaned out the window, and pointed a gun in the direction of the officers. According to the officers, as the pursuit continued, defendant stopped his car again, aimed his gun at the officers, and twice fired the gun in their direction. Subsequently, defendant stopped his car a third time, again aimed his gun toward the officers, and fired two more shots. Officers Wern and Oaks explained the precautionary measures they took to avoid being shot by defendant. During his testimony, defendant admitted firing his gun in the direction of the officers during the police pursuit, but claimed that he only fired at the tires on their cars.

The evidence that defendant stopped his car three times, pointed a loaded firearm toward the officers each time, and fired a total of four shots toward the officers, causing the officers to fear for their lives and maneuver to avoid being hit, viewed in a light most favorable to the prosecution, was sufficient to permit a rational trier of fact to infer beyond a reasonable doubt that defendant intended to do great bodily harm to the officers. That no actual physical injury occurred does not negate defendant's intent. See *People v Harrington*, 194 Mich App 424, 430; 487 NW2d 479 (1992). Although defendant argues that the trial court should have believed his version of the events, the trial court specifically found that defendant "tried to physically injure" the three officers and "believed [he] had the ability to cause an injury and that [he] intended to cause great bodily harm." This Court will not interfere with the trier of fact's role of determining the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). Rather, "a reviewing court is required to draw all reasonable inferences and make credibility choices in support of the [trier of fact's] verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Within this issue, defendant also claims that the trial court's finding that defendant was attempting to shoot "at the tire, not necessarily at them to try and kill them," is inconsistent with its verdict finding defendant guilty of assault with intent to do great bodily harm. The verdict reached in a bench trial must be consistent with the trial court's findings of fact. *People v Ellis*, 468 Mich 25, 27; 658 NW2d 142 (2003); *People v Smith*, 231 Mich App 50, 52-53; 585 NW2d 755 (1998). If the court's underlying findings of fact are inconsistent with the verdict, reversal may be necessary. See *People v Fairbanks*, 165 Mich App 551, 557; 419 NW2d 13 (1987).

In support of this argument, defendant relies on one isolated phrase without considering the context of the trial court's remaining factual findings and conclusions. Defendant was charged with assault with intent to commit murder, MCL 750.83, but the trial court found him guilty of the lesser included offense of assault with intent to do great bodily harm, MCL 750.84. The trial court was clearly aware of the factual issue whether defendant had the specific intent to murder the three police officers or to only cause them great bodily harm. The court specifically found that defendant "tried to physically injure three—the three officers by shooting the gun in their direction," and that defendant "believed [he] had the ability to cause an injury and that [he] intended to cause great bodily harm." Although the court also stated that it was crediting defendant's testimony "that you were shooting at the tire, not necessarily at them to try and kill them," that statement was made in the context of explaining why the court did not find that defendant acted with an intent to kill. Even if the court's statement is considered in the context of the court's findings regarding assault with intent to do great bodily harm, those findings are not inherently inconsistent because the court could logically and consistently find that defendant intended to injure the officers and cause them great bodily harm by intentionally attempting to disable their oncoming vehicles through an act designed to cause them to lose control of the vehicles. Thus, the court's findings are not inconsistent with its verdict.

IV. DEFENDANT'S STANDARD 4 BRIEF

Defendant raises several additional issues in a pro se supplemental brief filed pursuant to Supreme Court Administrative Order No. 2004-6, Standard 4.

A. DISTRICT COURT ARRAIGNMENT

Defendant argues that the trial court lacked jurisdiction over him because a prosecutor did not file a signed information, contrary to MCR 6.112(D). However, the record discloses that the information was filed on November 14, 2010, the date of defendant's district court arraignment. Further, the information in the lower court file is signed by a prosecutor. Accordingly, there is no merit to this issue.

B. CIRCUIT COURT ARRAIGNMENT

Defendant also argues that his circuit court arraignment was defective because he was not given a copy of the information and the information was not read in court, contrary to MCR 6.104(E) and MCR 6.113(B). "The purpose of an arraignment is to provide formal notice of the charge against the accused." *People v Waclawski*, 286 Mich App 634, 704; 780 NW2d 321 (2009). "At an arraignment, the information is read to the accused and the accused may enter a plea to those charges." *Id.*; see also MCR 6.104(E). "The accused may waive the reading of the

formal charges at the arraignment." *Waclawski*, 286 Mich App at 704; see also MCR 6.113(B). The record discloses that at defendant's April 22, 2011, circuit court arraignment, defense counsel acknowledged receipt of the information and waived a formal reading of the information. Because defendant was represented by counsel, and counsel acknowledged receiving the information and waived a formal reading, there was no violation of MCR 6.104(E) or MCR 6.113(B).

C. THE HABITUAL INFORMATION NOTICE

Defendant next argues that he is entitled to resentencing because the habitual offender notice was not in compliance with MCL 769.13 and MCR 6.112(F). MCL 769.12(1) provides that a person who has been previously convicted of three or more felonies shall be subject to an enhanced sentence if convicted of a subsequent felony. To enhance the sentence of a defendant, the prosecutor must file a written notice of intent to seek an enhanced sentence within 21 days of the defendant's arraignment on the information charging the underlying offense or, if the arraignment was waived, within 21 days of the filing of the information. MCL 769.13(1); MCR 6.112(F). The notice must be filed with the court and served personally on the defendant or his attorney at the arraignment, or served in any manner provided by law or court rule. MCL 769.13(2). The purpose of MCL 769.13 is to ensure that a defendant receives notice at an early stage in the proceedings that he could be sentenced as an habitual offender. *People v Morales*, 240 Mich App 571, 582; 618 NW2d 10 (2000). The prosecuting attorney must also file a written proof of service with the clerk of the court. MCL 769.13(2).

The lower court record contains a "notice of intent to seek sentence enhancement fourth or subsequent offense," which was filed on April 18, 2011, making it timely in relationship to the date of arraignment, as well as the date the information was filed. As the prosecutor concedes, however, no written proof of service for the notice is on file and there is no indication in the record that defendant timely received actual notice of the sentence enhancement. At defendant's arraignment, defense counsel acknowledged receipt of the information, but there is no indication that the defense also received the notice of enhancement. Neither the felony complaint, felony warrant, nor the felony information include any reference to defendant being charged as a fourth habitual offender. Because there is no indication that defendant timely received notice of the sentencing enhancement, and given the prosecutor's concession, we vacate his sentences and remand for resentencing. In light of our ruling, there is no need to address defendant's related arguments that the trial court erred in concluding that he had three prior felony convictions and that counsel was ineffective in not raising the enhancement matter.

D. EFFECTIVE ASSISTANCE OF COUNSEL

Because defendant did not raise an ineffective assistance of counsel claim in the trial court, our review of this issue is limited to mistakes apparent on the record. *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973); *People v Sabin (On Second Remand)*, 242 Mich App 656, 658-659; 620 NW2d 19 (2000). Effective assistance of counsel is presumed and defendant bears a heavy burden of proving otherwise. *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994); *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). To establish ineffective assistance of counsel, defendant first must show that counsel's performance fell below an objective standard of reasonableness. In doing so, defendant must overcome the

strong presumption that counsel's assistance constituted sound trial strategy. Second, defendant must show that, but for counsel's deficient performance, it is reasonably probable that the result of the proceeding would have been different. *People v Armstrong*, 490 Mich 281, 289-290; 806 NW2d 676 (2011). Defendant has the burden of establishing the factual predicate of his claim. *People v Hoag*, 460 Mich 1, 6; 594 NW2d 57 (1999).

1. UNSIGNED INFORMATION

As discussed in part IV(A), *supra*, the record contains a signed information dated November 14, 2010. Thus, the record does not support defendant's assertion that he was arraigned on the basis of an unsigned information and, accordingly, defense counsel cannot be deemed ineffective for failing to challenge the information.

2. UNTIMELY RULING ON MOTIONS

Defendant argues that defense counsel was ineffective for failing to file a complaint regarding the trial court's alleged violation of MCR 8.107(A), for failing to timely rule on "motions." Not only has defendant failed to indicate what motions were untimely decided, he does not explain how he was prejudiced. Thus, this ineffective assistance of counsel claim cannot succeed.

3. FAILING TO OBJECT TO SAVAYA BEING IN THE COURTROOM

The record does not support defendant's assertion that defense counsel was ineffective for failing to object to Savaya's presence in the courtroom during the proceedings. The record indicates that defense counsel raised this matter during trial, but it was determined that the person in the back of the courtroom was a friend of the store owner, "not the victim." Thus, defendant cannot establish a claim of ineffective assistance of counsel in this regard.

E. SUFFICIENCY OF THE EVIDENCE – ARMED ROBBERY

The elements of armed robbery are (1) the defendant was engaged in the course of committing a larceny of any money or other property, (2) the defendant used force or violence against a person who was present or assaulted or put the person in fear, and (3) the defendant, in the course of committing the larceny, possessed a real or feigned dangerous weapon or represented that she possessed a dangerous weapon. *People v Chambers*, 277 Mich App 1, 7; 742 NW2d 610 (2007).

The evidence that defendant entered Savaya's store armed with a semi-automatic pistol, pointed the firearm at Savaya while stating, "This is a stickup," took $788 and credit card receipts, threatened to shoot Savaya as Savaya fled from the store, and was in possession of the money and store receipts when he was arrested, viewed in a light most favorable to the prosecution, was sufficient to enable a rational trier of fact to find the necessary elements for armed robbery beyond a reasonable doubt. Defendant does not dispute that Savaya's testimony, if believed, was sufficient to establish each element of the crime beyond a reasonable doubt. Instead, defendant contends that Savaya's testimony was not credible. As previously indicated, witness credibility is for the trier of fact to decide, *Jackson*, 178 Mich App at 65, and the trial court "may choose to believe or disbelieve any witness or any evidence presented in reaching a

verdict." *People v Cummings*, 139 Mich App 286, 294; 362 NW2d 252 (1984). After hearing and observing the testimony, the trial court concluded that Savaya was more credible than defendant. This finding is not clearly erroneous. *Reese,* 491 Mich at 139.

F. CRUEL AND UNUSUAL PUNISHMENT

Defendant argues that he is entitled to resentencing because his sentences, when added to the remaining term of a life sentence for a prior conviction for which he had been released on parole, constitutes cruel and unusual punishment.[1] The trial court sentenced defendant within the appropriate guidelines range of 135 months to 450 months and defendant did not advance a claim below that a sentence within the guidelines would nonetheless be constitutionally cruel or unusual. Therefore, this issue is unpreserved and our review is limited to plain error affecting defendant's substantial rights. *Carines,* 460 Mich at 763-764.

Although MCL 769.34(10) provides that a sentence within the guidelines range must be affirmed on appeal absent an error in the scoring of the guidelines or reliance on inaccurate information in determining the sentence, neither of which is alleged here, this limitation on review is not applicable to claims of constitutional error. *People v Conley*, 270 Mich App 301, 316; 715 NW2d 377 (2006). But a sentence within the guidelines range is presumptively proportionate, and a sentence that is proportionate is not cruel or unusual punishment. *People v Powell*, 278 Mich App 318, 323; 750 NW2d 607 (2008). The mere fact that defendant's sentences must be served consecutively to the remaining portion of his parole-related sentence is insufficient to overcome the presumptive proportionality. *Id.* at 324. Because defendant has not overcome the presumption of proportionality, we reject his claim that his sentences constitute cruel or unusual punishment.

G. JURISDICTION

In defendant's last three issues in his Standard 4 brief, he appears to challenge the trial court's exercise of jurisdiction over him and his case based on his alleged citizenship as a Moorish-American. To the extent that defendant raises a claim affecting the court's subject-matter jurisdiction, it cannot be waived and we review the matter de novo. *People v Harris*, 224 Mich App 597, 599; 569 NW2d 525 (1997). However, to the extent that defendant is challenging the trial court's exercise of personal jurisdiction, he failed to raise a coherent claim on this basis below, thereby failing to preserve that issue. We review defendant's unpreserved claim that the trial court lacked personal jurisdiction over him for plain error affecting substantial rights. *Carines*, 460 Mich at 763-764.

Defendant has failed to establish a factual basis for his claims, or cite any applicable legal authority to support his arguments. As the appellant, defendant is required to do more than merely announce his position and leave it to this Court to discover and rationalize the basis for his claim. *Goolsby v Detroit*, 419 Mich 651, 655 n 1; 358 NW2d 856 (1984). Moreover, as the

[1] Defendant does not challenge the propriety of consecutive sentencing in this case pursuant to MCL 750.110a(8) and MCL 750.227b.

prosecution aptly notes, even if defendant could establish that he is a Moorish citizen and an alien under United States law, he still has a duty to conform to the laws of the United States while residing here, and his identity does not deprive the state of jurisdiction over him. Further, defendant was charged with a felony, and "Michigan circuit courts are courts of general jurisdiction and unquestionably have jurisdiction over felony cases." *People v Lown*, 488 Mich 242, 268; 794 NW2d 9 (2011). Therefore, we reject this claim of error.

We affirm with respect to defendant's convictions, but his sentences are vacated, and we remand for resentencing in a manner consistent with this opinion. We do not retain jurisdiction.

/s/ William B. Murphy
/s/ Jane E. Markey
/s/ Michael J. Riordan