STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED January 08, 2026 2:39 PM
v	No. 369059 Hillsdale Circuit Court
JEFFREY GORDON WOODBY, Defendant-Appellant.	LC No. 2023-475500-FH

Before: CAMERON, P.J., and KOROBKIN and BAZZI, JJ.

PER CURIAM.

Defendant, Jeffrey Gordon Woodby, appeals by right his conviction following a jury trial for possession of methamphetamine, MCL 333.7403(2)(b)(*i*). On appeal, defendant argues that there was insufficient evidence to support his conviction and that he was denied effective assistance of counsel. For the reasons stated in this opinion, we disagree with defendant's arguments and therefore affirm.

I. BACKGROUND AND FACTS

This case arises from methamphetamine being found in defendant's overalls during a search incident to his arrest. On April 11, 2023, at approximately 10:46 a.m., Captain Kevin Bradley, Detective Sergeant Wesley Ludeker, Detective Sergeant Steven Rathburn, and Deputy Corianne Herring of the Hillsdale County Sheriff's Office arrived at defendant's property in response to a complaint. When they arrived, defendant was working on a car in the driveway by the garage. At trial, defendant testified that he was wearing overalls that he had found in the trunk of the car, which had been abandoned by its previous owners. That day was the second time that he had worn the overalls.

Captain Bradley arrested defendant for an outstanding warrant, then conducted a search incident to the arrest. In defendant's left leg pocket, Captain Bradley found some paperwork and currency; a .44 Magnum ammunition round; and two different pills, which defendant identified as acetaminophen and an antibiotic. At defendant's request, Captain Bradley returned the papers and currency to defendant's pocket. In defendant's right chest pocket, Captain Bradley found a prescription pill bottle, a baggie of suspected methamphetamine, and a small rubber container with

suspected methamphetamine inside. The pill bottle contained pills for the prescription drug fluoxetine, and the label bore someone else's name. Defendant stated that the prescription owner had asked him to hold onto the bottle so that no one stole it.

The officers returned to their headquarters at about 10:58 a.m., at which point Captain Bradley gave the substances to Detective Sergeant Ludeker for testing using a TruNarc handheld narcotics analyzer. The report generated from the TruNarc device stated that the substances found in defendant's overalls tested positive for methamphetamine at 10:12 a.m. At trial, both Captain Bradley and Detective Sergeant Ludeker testified that they believed that the clock on the TruNarc device had not been adjusted for daylight saving time, so the substances were actually tested at 11:12 a.m. Subsequent lab testing confirmed that the substance in the baggie was methamphetamine.

In connection with this incident, defendant was charged with possession of methamphetamine, and the case proceeded to trial. During voir dire, defense counsel used all five of her peremptory challenges before the last juror was called. The trial court gave the attorneys the opportunity to challenge the last juror, but defense counsel said that she was out of peremptory challenges and did not request a dismissal for cause. At the end of the trial, the last juror, acting as the jury foreperson, delivered the jury's guilty verdict.

Defendant was initially sentenced to probation, but his probation was revoked after a probation violation. Defendant appealed his conviction, arguing that there was insufficient evidence to support it. This Court granted defendant's motion to remand for a *Ginther*[1] hearing to establish a factual basis for a claim of ineffective assistance of counsel.

At the *Ginther* hearing in the trial court, defendant testified that defense counsel represented his ex-wife in their divorce about a year and a half before this case. He believed that defense counsel had a conflict of interest and was biased against him because in the divorce case he had made defense counsel "look bad in court." Defense counsel testified that she had no memory of the case and that her only role had been to file a motion for default judgment against defendant.

Defendant claimed that defense counsel was also ineffective because she failed to challenge the juror who became the foreperson. Defendant testified that the juror was his former financial planner who managed defendant's investment account about a year and a half before this case. Defendant withdrew all his money from the account after the financial planner lost 10% of defendant's money in three months. Defendant believed that the juror was biased against him because he was upset that defendant withdrew all the funds from the account that he had managed. Defense counsel testified that defendant never told her anything about his history with the juror.

Defendant had also written letters to defense counsel, the trial judge, and the prosecutor, expressing his dissatisfaction with defense counsel. In one of the letters, he said that his attorney

[1] "A defendant who wishes to advance claims that depend on matters not of record can properly be required to seek at the trial court level an evidentiary hearing for the purpose of establishing his claims with evidence . . . ." *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973).

would not listen to him about his case and that the case should be dismissed because of the timing issue with the TruNarc report. Defense counsel testified that that she advised him to stop writing letters because they were interfering with defense strategy. Defendant was also concerned that defense counsel did not request that the containers be tested for fingerprints, but defense counsel testified that she had learned from an expert in a previous case that baggies of the kind seized from defendant usually do not have any fingerprints on them.

After the evidentiary hearing, the trial court issued a written opinion stating that it found defense counsel's testimony credible and concluding that defense counsel had not been ineffective.

Defendant now appeals.

II. STANDARDS OF REVIEW

"[T]his Court reviews de novo a defendant's challenge to the sufficiency of the evidence to support his or her conviction." *People v Speed*, 331 Mich App 328, 331; 952 NW2d 550 (2020). "In determining whether sufficient evidence exists to sustain a conviction, this Court reviews the evidence in the light most favorable to the prosecution, and considers whether there was sufficient evidence to justify a rational trier of fact in finding guilt beyond a reasonable doubt." *People v Oros*, 502 Mich 229, 239; 917 NW2d 559 (2018) (quotation marks and citation omitted). Our review is highly deferential because this Court "is required to draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

"Whether a defendant received ineffective assistance of trial counsel presents a mixed question of fact and constitutional law." *People v Armstrong*, 490 Mich 281, 289; 806 NW2d 676 (2011). The trial court's factual findings are reviewed for clear error, and questions of constitutional law are reviewed de novo. *Id*.

III. ANALYSIS

A. SUFFICIENCY OF THE EVIDENCE

Defendant first argues that there was insufficient evidence to support his conviction. We disagree.

"The sufficient evidence requirement is a part of every criminal defendant's due process rights," *People v Wolfe*, 440 Mich 508, 514; 489 NW2d 748, amended on other grounds 441 Mich 1201 (1992), and "the Due Process Clause [of the United States Constitution] requires the prosecution to prove beyond a reasonable doubt all of the elements included in the definition of the offense of which the defendant is charged," *Patterson v New York*, 432 US 197, 210; 97 S Ct 2319; 53 L Ed 2d 281 (1977). In this case, defendant was charged with possession of methamphetamine, which required the prosecutor to prove two elements: (1) defendant possessed methamphetamine, and (2) defendant *knew* that he possessed methamphetamine. See M Crim JI 12.5.

Defendant challenges the sufficiency of the evidence only in relation to the knowledge element. "Because it is difficult to prove an actor's state of mind, the prosecution may rely on minimal circumstantial evidence to prove that the defendant had the required mental state." *People v McFarlane*, 325 Mich App 507, 516; 926 NW2d 339 (2018). When reviewing the sufficiency of the evidence, this Court treats direct and circumstantial evidence the same. *Oros*, 502 Mich at 239.

Defendant argues that the jury's verdict was based on a mere "assumption" that defendant knew that he possessed methamphetamine. But the trial record contains significant circumstantial evidence from which the jury could reasonably infer that defendant had knowledge of the methamphetamine. Captain Bradley found the methamphetamine in the pocket of defendant's overalls. The overalls may have had a previous owner, but defendant had already worn them once before the day he was arrested. Defendant also had other personal property in his pockets, including the pill bottle, paperwork, cash, and over-the-counter medicine. In particular, the pill bottle that defendant said had been given to him by someone else for safekeeping was found in the same pocket as the methamphetamine. A rational jury could easily infer from this evidence that, after wearing the overalls for two days and adding his own property to the pockets, defendant either placed the methamphetamine there himself or knew of the methamphetamine and decided to continue carrying it. Taken in the light most favorable to the prosecution, a rational jury would be justified in finding that this evidence proved defendant's guilt beyond a reasonable doubt.

B. INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant next argues that he was denied effective assistance of counsel because defense counsel failed to address a conflict of interest, failed to challenge a biased juror, and failed to properly meet and prepare with defendant. We disagree.

Criminal defendants have the constitutional right to effective assistance of counsel under both state and federal law. *People v Yeager*, 511 Mich 478, 488; 999 NW2d 490 (2023), citing US Const, Am VI; Const 1963, art 1, § 20. "Effective assistance of counsel is presumed, and a defendant bears a heavy burden of proving otherwise." *People v Putman*, 309 Mich App 240, 248; 870 NW2d 593 (2015).

First, "the defendant must show that counsel's representation fell below an objective standard of reasonableness." *Strickland v Washington*, 466 US 668, 687-688; 104 S Ct 2052; 80 L Ed 2d 674 (1984). We must review the totality of the circumstances with a strong presumption that the defense counsel's decisions were "sound trial strategy." *Id*. at 689 (quotation marks and citation omitted). In other words, we must "affirmatively entertain the range of possible reasons . . . counsel may have had for proceeding as they did." *Cullen v Pinholster*, 563 US 170, 196; 131 S Ct 1288; 179 L Ed 2d 557 (2011) (quotation marks and citation omitted).

Second, the defendant must show that the defense counsel's deficient performance was prejudicial to his defense. *Strickland*, 466 US at 692. Prejudice exists when "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different. A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id*. at 694.

1. CONFLICT OF INTEREST

Defendant argues that his counsel was ineffective because she was biased against him after representing his ex-wife in their divorce.

Representing a defendant despite a conflict of interest violates a defense counsel's duty of loyalty to their client, which would fall below an objective standard of reasonableness. *Id*. at 688, 692. If a defense counsel was "burdened by an actual conflict of interest," then the reviewing court will presume that the conflict prejudiced the defense, which would meet the second prong of the *Strickland* test. *Id.* at 692. If there was no actual conflict of interest, but a "mere theoretical division of loyalties," then the defendant must affirmatively prove prejudice. *Mickens v Taylor*, 535 US 162, 171; 122 S Ct 1237; 152 L Ed 2d 291 (2002).

We conclude that no actual conflict of interest existed in this case. Under the Michigan Rules of Professional Responsibility, with certain exceptions, "[a] lawyer shall not represent a client if representation of that client will be directly adverse to another client[.]" MRPC 1.7(a). However, court records show that defendant's divorce occurred years before defense counsel was appointed to represent defendant in this case, so defense counsel's representation of defendant was not "directly adverse to another client." The Michigan Rules of Professional Responsibility also provide, with certain exceptions, that "[a] lawyer who has *formerly* represented a client in a matter shall not thereafter represent another person *in the same or a substantially related matter* in which that person's interests are materially adverse to the interests of the former client . . . ." MRPC 1.9(a) (emphasis added). But defendant's divorce and his criminal case are not the same or substantially related, and nothing about defendant's interests in the criminal case were materially adverse to the interests of his ex-wife. In short, no conflict of interest arises merely because defendant's attorney represented a client adverse to him in an unrelated matter before the criminal-defense representation began. Defense counsel did not "actively represent[] conflicting interests." *Mickens*, 535 US at 166.

To the extent defendant contends that the representation nonetheless raises the specter of a "theoretical division of loyalties," then he must affirmatively prove prejudice. *Mickens*, 535 US at 171. But the record contains no indication that defense counsel's previous adverse representation had any prejudicial effect in this case. Defense counsel testified that she had no recollection of the divorce case, that her role was limited to filing a motion for default judgment, and that she was not aware if she ever even saw defendant during the divorce case. The trial court found this testimony credible and we detect no clear error in this determination.

2. BIASED JUROR

Next, defendant argues that his counsel was ineffective for failing to challenge the final juror during voir dire.

"[T]his Court has been disinclined to find ineffective assistance of counsel on the basis of an attorney's failure to challenge a juror." *People v Unger*, 278 Mich App 210, 258; 749 NW2d 272 (2008). In this case, to challenge the juror for cause, defense counsel would have had to know about the relationship between defendant and the juror. But the juror expressed no animus toward, or even recognition of, defendant on the record. And defense counsel testified that defendant never

told her about any history or relationship with the juror. The trial court found defense counsel to be credible on this issue, a determination to which we defer. See *People v Farrow*, 461 Mich 202, 209; 600 NW2d 634 (1999) ("The trial judge's resolution of a factual issue is entitled to deference. This is particularly true where a factual issue involves the credibility of the witnesses whose testimony is in conflict."). Defense counsel's performance cannot be deemed deficient for failing to address this issue.

3. LACK OF COMMUNICATION

Finally, defendant argues that defense counsel was ineffective because she failed to properly meet and prepare with him for trial and comply with his requests about how to present his defense.

Failure to meet with a client as much as he desires does not constitute ineffective counsel if the defense counsel is otherwise prepared for trial. See *People v Payne*, 285 Mich App 181, 189; 774 NW2d 714 (2009). In *Payne*, this Court rejected a claim of ineffective assistance of counsel when the defense counsel did not meet with the defendant between the preliminary examination and the defendant's multiday, consolidated trial for multiple counts of first-degree and third-degree criminal sexual conduct (CSC). *Id.* at 185, 189. Despite the lack of contact with the defendant, the defense counsel's performance did not fall below an objective standard of reasonableness because the "defense counsel was prepared for trial, displayed an adequate knowledge of the evidence, and was fully prepared to cross-examine the prosecution's witnesses." *Id*. at 189.

Compared to the defense counsel in *Payne*, defense counsel in this case met with defendant more often to prepare for a much simpler case. Defense counsel testified that she met with defendant nine times in total, including three meetings outside of regularly scheduled court hearings. One meeting was specifically to address defendant's concerns that she was not meeting with him or listening to him. The other two meetings were to discuss trial strategy. The record reflects that defense counsel was adequately prepared for trial and capably represented defendant.

Defendant also argues that defense counsel failed to listen to him regarding the TruNarc test and his request for fingerprinting on the baggie of methamphetamine. Both decisions were matters of sound trial strategy. Defense counsel advised defendant to stop writing letters to the court because defendant had highlighted important evidence, i.e., the timing issue with the TruNarc report, which destroyed the element of surprise that defense counsel planned to save for cross-examination at trial. Likewise, having the baggie dusted for fingerprints would likely harm the defense because it would create an opportunity for a witness to testify that such fingerprints were unlikely in *any* case. Instead, defense counsel simply asked Captain Bradley whether the baggie was ever tested for fingerprints. This decision framed the lack of fingerprint evidence as a failure in the police's investigative work, which was a legitimate trial strategy within defense counsel's sound discretion.

Overall, none of the alleged deficiencies in defense counsel's performance fell below an objective standard of reasonableness, so the trial court did not err by rejecting defendant's ineffective assistance claim.

Affirmed.

/s/ Thomas C. Cameron
/s/ Daniel S. Korobkin
/s/ Mariam S. Bazzi