

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL ANTHONY GARCIA,

Defendant-Appellant.

UNPUBLISHED

October 15, 2026

11:26 AM

No. 372551

Montmorency Circuit Court

LC No. 2023-005386-FH

Before: BORRELLO, P.J., and BAZZI and LIEVENSE, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of operating while intoxicated (OWI), third offense, MCL 257.625(9)(c). For the reasons set forth in this opinion, we affirm.

I. BACKGROUND

At approximately 11:00 p.m. on the evening in question, law enforcement received a report of a suspected motor vehicle accident in front of the Montmorency County Courthouse. A witness testified that, while driving near the courthouse, he observed a truck parked across the street from the courthouse with its engine running and headlights illuminated. The witness promptly contacted the sheriff’s office. Immediately prior to the arrival of law enforcement at the scene, the witness observed a silver station wagon approach, collect the individual from the truck, and depart the area. Sergeant Nicholas Breed and Deputy Jacob DeMott arrived on scene shortly thereafter. Upon inspection, Sergeant Breed documented multiple indicia of vehicular loss of control, including tire tracks, scattered truck debris on the courthouse lawn leading to a damaged street sign, and visible damage to the truck itself. He also discovered a shoe on the driver’s side of the truck’s interior. Subsequent investigation revealed that the truck was registered to defendant.

Deputy DeMott received a description of the station wagon and the direction in which it had departed and subsequently left the scene to locate the vehicle. Within minutes, he identified a station wagon matching the witness’s description and initiated a traffic stop. The vehicle was operated by defendant’s mother, with defendant occupying the passenger seat. Upon explaining that he was investigating a motor vehicle accident in front of the courthouse, Deputy DeMott

received an admission from defendant that he had been operating the truck parked across from the courthouse. After requesting that defendant exit the vehicle, Deputy DeMott observed that defendant was missing his right shoe and displayed indicia of intoxication. Defendant stated that he had become angry, left work, lost control of his truck, and subsequently fled the scene. In response to Deputy DeMott's inquiry regarding alcohol consumption, defendant admitted to drinking. When asked about the missing shoe, defendant reported that he was unaware of its whereabouts.

After defendant failed Deputy DeMott's field sobriety tests, DeMott advised him that he was under arrest; however, defendant refused to enter the patrol vehicle. Deputy DeMott then contacted Sergeant Breed for assistance, and together they secured defendant in the police vehicle. DeMott transported defendant to the sheriff's office, administered *Miranda* warnings,¹ and conducted two Breathalyzer tests, which yielded blood alcohol content readings of 0.22 and 0.21, respectively. Notably, following his arrest, defendant recanted his earlier admission and denied operating the vehicle. Defendant was subsequently charged with operating while intoxicated (OWI), third offense, MCL 257.625(9)(c), and two counts of resisting and obstructing, MCL 750.81d.

Following a jury trial, defendant was convicted of OWI but acquitted of the resisting and obstructing charges. The trial court denied defendant's motion for a new trial. Defendant now appeals as of right.

II. *BRADY* VIOLATION

Defendant contends on appeal that the trial court abused its discretion when it denied his motion for a new trial. Specifically, defendant asserts that Sergeant Breed's failure to activate his body-worn camera constituted a violation of defendant's rights under *Brady v Maryland*, 373 US 83; 83 S Ct 1194; 10 L Ed 2d 215 (1963). Defendant maintains that the absence of potentially exculpatory evidence resulting from Sergeant Breed's failure to record the relevant events prejudiced his defense and deprived him of a fair trial. Accordingly, defendant argues that the trial court erred by refusing to grant a new trial on this basis.

We review a trial court's decision on a motion for a new trial for an abuse of discretion. *People v Craig*, 342 Mich App 217, 225-226; 994 NW2d 792 (2022). "A trial court abuses its discretion when it selects an outcome that falls outside the range of reasonable outcomes." *Id.* at 226 (quotation marks and citation omitted). Due-process claims, including allegations of a *Brady* violation, are reviewed de novo. *People v Dimambro*, 318 Mich App 204, 212; 897 NW2d 233 (2016). However, "[a] trial court's factual findings are reviewed for clear error." *People v Johnson*, 502 Mich 541, 565; 918 NW2d 676 (2018). A factual finding is clearly erroneous "if the reviewing court is left with a definite and firm conviction that the trial court made a mistake." *Id.* (quotation marks and citation omitted.)

In *Brady*, 373 US at 87, the United States Supreme Court held "that the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the

¹ *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.” “Even in the absence of a specific request, the prosecution has a constitutional duty to turn over exculpatory evidence that would raise a reasonable doubt about the defendant’s guilt.” *California v Trombetta*, 467 US 479, 485; 104 S Ct 2528; 81 L Ed 2d 413 (1984). To establish a *Brady* violation, a defendant must show that “(1) the prosecution has suppressed evidence (2) that is favorable to the accused and (3) that is material.” *People v Chenault*, 495 Mich 142, 150; 845 NW2d 731 (2014). “The government is held responsible for evidence within its control, even evidence unknown to the prosecution, without regard to the prosecution’s good or bad faith.” *Id.* (citation omitted). “Evidence is favorable to the defense when it is either exculpatory or impeaching.” *Id.* “To establish materiality, a defendant must show that there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A ‘reasonable probability’ is a probability sufficient to undermine confidence in the outcome.” *Id.* (citation and some quotation marks omitted).

Sergeant Breed testified at trial that, despite a sheriff’s department policy requiring body cameras to be activated when an officer is present at a scene, he did not immediately activate his body camera upon arrival on the night in question. His testimony was ambiguous as to whether he activated the camera later or failed to activate it at all. When questioned about this lapse, Breed attributed it to “human error,” stating that events unfolded rapidly and he “just forgot to hit the button.”

When defendant moved in the trial court for a new trial, he attached an affidavit by Michelle Haren-Priemer in which she averred that she had arrived at the scene of the traffic stop after being contacted by defendant’s mother, Helen Garcia. Haren-Priemer further averred in relevant part as follows:

5. Upon arriving at the scene Sgt Breed approached my vehicle and hit his chest where his body-worn camera is located in what appeared to be him either turning it on or off.
6. Upon arriving at my vehicle, Sgt Breed instructed me to leave because he was conducting an investigation.
7. Instead of leaving, I remained on the scene for several minutes where I witnessed Sgt Breed screaming at Helen Garcia.

On appeal, defendant contends that the affidavit raises a factual question as to whether Sergeant Breed deliberately deactivated his body-worn camera, and further asserts that, had the camera remained operational, it would have captured exculpatory evidence relevant for impeachment of Breed or other witnesses. Defendant frames Breed’s conduct as amounting to the intentional destruction of evidence.

Nevertheless, defendant has failed to produce evidence that Breed’s body-worn camera would have captured information undermining confidence in the outcome of the trial, and thus has not satisfied the “materiality” requirement necessary for establishing a *Brady* violation. *Chenault*, 495 Mich at 150-151. Whether Breed yelled at Helen is immaterial to the central issue of whether defendant was operating the crashed vehicle while intoxicated. Defendant’s unsupported assertion that the body camera would have yielded material evidence is speculative and insufficient to establish a *Brady* violation. See *id.* Moreover, defendant’s argument is, in essence, that Breed

failed to *create* certain evidence—namely, a complete video record of his actions that evening. The police are not constitutionally required to conduct specific tests during an investigation, *Arizona v Youngblood*, 488 US 51, 59; 109 S Ct 333; 102 L Ed 2d 281 (1988), nor are they required to generate particular types of evidence. Cf. *id.*; accord *People v Green*, 310 Mich App 249, 256; 871 NW2d 888 (2015) (“Although plaintiff is required to disclose evidence that has been developed, it is not required to develop evidence . . . that defendant hopes will provide him with a defense.”).

Furthermore, there is no evidence of “a calculated effort to circumvent the disclosure requirements established by *Brady v Maryland* and its progeny.” *Trombetta*, 467 US at 488. Even assuming, arguendo, that Breed intentionally deactivated his body camera, the record does not support the conclusion that he did so to conceal evidence with any discernible exculpatory value. *Id.* at 488-489.

Accordingly, defendant has not established a *Brady* violation, and the trial court did not abuse its discretion in denying defendant’s motion for a new trial on this basis.

III. JURY SELECTION

Additionally, in a Standard 4 brief, defendant argues that the trial court violated MCR 2.511(A)(2) by conducting a blind draw of potential juror’s names behind the bench instead of in a way that was visible to defendant. This Court reviews de novo challenges to the jury-selection process and the interpretation of court rules. *People v Fletcher*, 260 Mich App 531, 554; 679 NW2d 127 (2004).

MCR 2.511(A) provides in relevant part:

(2) In an action that is to be tried before a jury, the names or corresponding numbers of the prospective jurors shall be deposited in a container, and the prospective jurors must be selected for examination by a random blind draw from the container.

* * *

(4) Prospective jurors may be selected by any other fair and impartial method directed by the court or agreed to by the parties. [MCR 2.511(A)(2) and (4).]

When defendant raised this issue at his sentencing hearing, the trial court explicitly stated: “the names were picked out of, literally, and seated in a -- a basket, essentially, next to the clerk. They’re pieces of paper that are folded up so that you can’t see, and I watched them being picked out randomly.” The plain language of MCR 2.511(A)(2) does not require the blind draw process to occur in defendant’s direct line of sight, and defendant thus has not demonstrated that the court rule was violated. Furthermore, we do not glean anything from this record that would suggest that the juror-selection process was anything other than fair and impartial.

IV. INEFFECTIVE ASSISTANCE

Defendant also argues that the trial court erred by denying his motion for a new trial because defendant was denied the effective assistance of counsel. Through his appellate counsel, defendant alleges that his trial counsel was ineffective by failing to challenge the validity of the traffic stop and failing to seek suppression of defendant's statements that were made without receiving *Miranda* warnings. In his Standard 4 brief, defendant further argues that his trial counsel's performance was deficient when he failed to object to the jury-selection process.

"A claim of ineffective assistance of counsel presents a mixed question of fact and constitutional law." *People v Spears*, 346 Mich App 494, 502; 13 NW3d 30 (2023) (quotation marks and citation omitted). This Court reviews the trial court's factual findings for clear error and its conclusions of constitutional law de novo. *People v Matuszak*, 263 Mich App 42, 48; 687 NW2d 342 (2004). "A finding is clearly erroneous if this Court is left with a definite and firm conviction that the trial court made a mistake." *People v Abcumby-Blair*, 335 Mich App 210, 227-228; 966 NW2d 437 (2020) (quotation marks and citation omitted). If a *Ginther*² hearing was not held, this Court's review is limited to mistakes apparent on the record. *People v McMillan*, 213 Mich App 134, 141; 539 NW2d 553 (1995). Additionally, we review a trial court's decision on a motion for a new trial for an abuse of discretion. *Craig*, 342 Mich App at 225-226.

"In order to establish the right to a new trial premised on ineffective assistance of counsel, a defendant must show (1) that counsel's performance fell below an objective standard of reasonableness under prevailing professional norms and (2) that there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different." *Abcumby-Blair*, 335 Mich App at 228. "A reasonable probability is a probability sufficient to undermine confidence in the outcome." *Id.* (quotation marks and citation omitted).

A. TRAFFIC STOP

Defendant first argues that his trial counsel erred by failing to argue that the traffic stop was invalid under the Fourth Amendment. When an ineffective-assistance claim involves an alleged Fourth Amendment violation, "the defendant must [] prove that his Fourth Amendment claim is meritorious and that there is a reasonable probability that the verdict would have been different absent the excludable evidence in order to demonstrate actual prejudice." *People v Hughes*, ___ Mich App ___, ___ NW3d ___ (2025) (Docket No. 367172), slip op at 3 (quotation marks and citation omitted; alteration in original). However, "if the Fourth Amendment argument lacked merit, counsel would not have been ineffective for failing to advocate a meritless position." *Id.*

In general terms, a "traffic stop does not violate the Fourth Amendment when a police officer has an articulable and reasonable suspicion that a vehicle or one of its occupants is subject to seizure for a violation of law," and if the "traffic stop reveals a new set of circumstances, an officer is justified in extending the detention long enough to resolve the suspicion raised." *People v Moorman*, 331 Mich App 481, 485-486; 952 NW2d 597 (2020) (quotation marks and citations

² *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

omitted). “[R]easonable suspicion of criminal activity warrants a temporary seizure for the purpose of questioning limited to the purpose of the stop.” *Florida v Royer*, 460 US 491, 498; 103 S Ct 131; 975 L Ed 2d 229 (1983).

Reasonable suspicion may be based on specific rational inferences drawn from articulable facts available to the officer at the time, when considered in light of the officer’s experience. *Terry v Ohio*, 392 US 1, 21-22, 27; 88 S Ct 186; 820 L Ed 2d 889 (1968). However, reasonable suspicion must be based on more than an inchoate, unparticularized suspicion or “hunch.” *Id.* at 27. Reasonable cause justifying a *Terry* stop may be gathered from the officer’s personal observation and information supplied by other reliable sources, including informants under appropriate circumstances. *Adams v Williams*, 407 US 143, 147; 92 S Ct 192; 132 L Ed 2d 612 (1972). An officer may temporarily seize an individual based on a reasonable articulable suspicion that the individual has committed or is about to commit a crime, and the officer may then conduct limited questioning to verify or dispel that suspicion. *Royer*, 460 US at 498.

In this case, law enforcement officers responded to the scene of a motor vehicle accident, where a witness informed them that the occupant of the crashed vehicle had recently left the area in a different vehicle. Within minutes, Deputy DeMott conducted a traffic stop of defendant’s mother’s station wagon after determining that it matched the description provided by the witness of the vehicle that had picked up the occupant and departed the scene. “A tip provided to police may establish a reasonable suspicion of criminal activity if it carries with it ‘sufficient indicia of reliability.’” *People v Anderson*, ___ Mich App ___, ___ NW3d ___ (2026) (Docket No. 375876), slip op at 2. See also *Navarette v California*, 572 US 393, 397; 134 S Ct 1683; 188 L Ed 2d 680 (2014) (stating that “under appropriate circumstances, an anonymous tip can demonstrate sufficient indicia of reliability to provide reasonable suspicion to make [an] investigatory stop”) (quotation marks and citation omitted; alteration in original). “In determining whether the information from the citizen-informant carried enough indicia of reliability to provide the officers with a reasonable suspicion, courts are to consider the totality of the circumstances, including (1) the reliability of the particular informant, (2) the nature of the particular information given to the police, and (3) the reasonability of the suspicion in light of the above factors.” *Anderson*, ___ Mich App at ___, slip op at 3 (quotation marks and citation omitted).

Here, officers interviewed the witness at the scene, who indicated that the silver station wagon had departed only moments before. The officers observed damage to the defendant’s truck and to the courthouse lawn. Providing a tip directly to law enforcement in person enhances the credibility and reliability of the informant, as the individual is aware of the potential for further police inquiry. *People v Barbarich*, 291 Mich App 468, 480-481; 807 NW2d 56 (2011). A tip based on the firsthand and contemporaneous observations of an eyewitness also bears significant indicia of reliability. *Id.* at 480; *Navarette*, 572 US at 399-400. Considering the totality of the circumstances, the witness’s tip in this case was reliable.

Moreover, the witness’s tip supported the traffic stop because it established reasonable suspicion that criminal activity may have been afoot. *Navarette*, 572 US at 401, quoting *Terry*, 392 US at 30. The evidence at the scene indicated that the truck had driven across the courthouse lawn, collided with a street sign, and sustained significant damage. The witness further reported that the occupant left in another vehicle. Under these facts, it was reasonable for officers to suspect that the driver was intoxicated, lost control of the vehicle, and left the scene to avoid potential

consequences. See *Navarette*, 572 US at 402 (noting that certain driving behaviors, such as weaving, driving in the median, or otherwise erratic actions, are recognized indicia of intoxicated driving). A reliable tip describing such dangerous behaviors generally provides sufficient justification for an investigatory stop based on suspicion of drunk driving. *Id.*

Notably, the reasonableness of a seizure is “judged against an objective standard: would the facts available to the officer at the moment of the seizure or the search ‘warrant a man of reasonable caution in the belief’ that the action taken was appropriate?” *Terry*, 392 US at 21-22 (citations omitted). “The proper focus is on the *actions* of the officer, not his *thoughts*.” *People v Custer*, 465 Mich 319, 330; 630 NW2d 870 (2001). Moreover “the fact that the officer does not have the state of mind which is hypothecated by the reasons which provide the legal justification for the officer’s action does not invalidate the action taken as long as the circumstances, viewed objectively, justify that action.” *People v Estabrooks*, 175 Mich App 532, 539; 438 NW2d 327 (1989) (quotation marks and citation omitted).

Based on the evidence presented in this matter, the traffic stop did not violate the Fourth Amendment. See *Moorman*, 331 Mich App at 485. Because defendant’s Fourth Amendment claim lacks merit, his trial counsel also was not ineffective “for failing to advocate a meritless position.” *Hughes*, ___ Mich App ___, slip op at 3.

B. *MIRANDA*

Defendant also argues that his trial counsel was ineffective because he failed to argue that Deputy DeMott violated defendant’s Fifth Amendment rights when he allegedly subjected defendant to a custodial interrogation without reading him his *Miranda* warnings. “[T]he Fifth Amendment’s prohibition against compelled self-incrimination requires that the accused be given a series of warnings before being subjected to ‘custodial interrogation.’ ” *People v Elliot*, 494 Mich 292, 301; 833 NW2d 284 (2013), quoting *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966). Custodial interrogation is generally defined as “questioning initiated by law enforcement officers after the accused has been taken into custody or otherwise deprived of his or her freedom of action in any significant way.” *People v Steele*, 292 Mich App 308, 316; 806 NW2d 753 (2011). When determining whether an accused was in custody, courts consider whether the totality of the circumstances indicate that the accused “reasonably believed that he or she was not free to leave.” *Id.* At 316-317.

In *Berkemer v McCarty*, 468 US 420, 440; 104 S Ct 3138; 82 L Ed 2d 317 (1984), the United States Supreme Court held “that persons temporarily detained pursuant to [ordinary traffic] stops are not ‘in custody’ for the purposes of [*Miranda*].” The present case is factually similar to *Berkemer*. Like the respondent in *Berkemer*, *id.* at 423, defendant was not notified of his *Miranda* rights before he admitted that he had been drinking. Here, as in *Berkemer*, “a single police officer asked [defendant] a modest number of questions and requested him to perform a simple balancing test at a location visible to passing motorists.” *Id.* At 442. Considered in their totality, the facts of the present case also indicate that defendant was not in custody for the purposes of *Miranda* because he was subjected to an ordinary traffic stop that was not functionally equivalent to a formal arrest. Therefore, *Miranda* warnings were not required, and defendant’s statements were admissible. *Id.* Accordingly, trial counsel did not err by failing to seek suppression of the pre-*Miranda* statements because “[f]ailing to advance a meritless argument or raise a futile objection

does not constitute ineffective assistance of counsel.” *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010).

C. JURY SELECTION

Finally, in his Standard 4 brief, defendant argues that his trial counsel was ineffective in failing to object to the blind draw jury-selection process. However, as previously discussed, the trial court’s jury-selection process did not violate MCR 2.511(A). Therefore, trial counsel was not ineffective for failing to object to the jury-selection process because any objection would have been futile. *Ericksen*, 288 Mich App at 201.

Defendant has failed to demonstrate that he received ineffective assistance of counsel and accordingly has also failed to show that the trial court abused its discretion by denying his motion for a new trial on this basis.

Affirmed.

/s/ Stephen L. Borrello

/s/ Mariam S. Bazzi

/s/ Andrew J. Lievens