If this opinion indicates that it is "FOR PUBLICATION," it is subject to revision until final publication in the Michigan Appeals Reports.

STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v BRUCE MCKINZY SPENCER, Defendant-Appellant.	UNPUBLISHED October 20, 2026 2:37 PM No. 375234 Livingston Circuit Court LC No. 2024-028494-FH

Before: SWARTZLE, P.J., and ACKERMAN and TREBILCOCK, JJ.

PER CURIAM.

Defendant was convicted of unlawfully imprisoning, assaulting, and causing domestic violence against his former girlfriend. He appeals his convictions and corresponding sentences, challenging the evidence for the unlawful-imprisonment conviction, the testimony regarding other-acts evidence, and the scoring of offense variable (OV) 8. Because sufficient evidence was provided, the other-acts evidence was properly admitted, and OV 8 was accurately scored, we affirm.

I. BACKGROUND

This case arose out of an incident between defendant and the girlfriend with whom he lived at the time. The girlfriend, the victim in this case, testified that she wanted to end the approximately year-and-a-half relationship with defendant and attempted to remove defendant and his belongings from her home.

On the day of the incident, defendant was at the victim's house to "work things out." Instead of mending their relationship, defendant began arguing with the victim while he was intoxicated. When defendant indicated that he was leaving in his inebriated state, the victim popped the tires on his vehicle and retreated to her upstairs bedroom to lie on her bed. Ten minutes later, defendant entered the victim's bedroom, grabbed the victim around the neck, and slammed her against the headboard of the bed. Defendant continued to squeeze the victim's neck to a point where the victim's vision began to blacken.

Once defendant released the victim's neck, the victim tried running out the bedroom door. Just before she reached the door, defendant caught her by the neck with one hand and dragged her across the room, away from the door. Defendant then held the victim by her neck against a wall until the victim used her feet to force defendant to release her. But again, while the victim was trying to leave the room, defendant grabbed the victim and squeezed her neck.

Eventually, after pressing her thumb into his eye, the victim was able to flee from the bedroom and retrieve a firearm from the downstairs kitchen. She returned to the bedroom and pointed the firearm at defendant, forcing him to leave. The victim then passed out in the bedroom and woke up to defendant screaming at her in the doorway of the bedroom before he barricaded himself in a separate bedroom. At the urging of a friend, the victim reported the incident to the police a few days later, and defendant was arrested.

Defendant was charged with unlawful imprisonment, MCL 750.349b; two counts of assault with intent to do great bodily harm, MCL 750.84(1)(b); and domestic violence, MCL 750.81(2). Prior to trial, the prosecutor provided notice that it intended to introduce the testimony of a different former partner of defendant concerning acts of domestic violence that defendant committed against her. Defendant objected to this testimony but was overruled by the trial court.

At trial, the former partner testified about two incidents when defendant was intoxicated. The first incident involved shoving, holes in the walls, and defendant's failed attempt to swing a curtain rod to hit the former partner. During the second incident, after defendant yelled at and began chasing the former partner's daughter, the former partner grabbed defendant's feet to stop his pursuit, leading to a struggle between the two. The second incident eventually ended with defendant's destruction of a door and the former partner's call to police.

In the present case, the jury—after being instructed that it must not convict solely because defendant might be guilty of other bad conduct, including his assaults of the former partner—found defendant guilty on all charges. At sentencing, the trial court adopted the recommendations of the presentence investigation report (PSIR) with a few minor corrections. The parties agreed that the prior record variable 2 was scored incorrectly, but defense counsel did not object to the scoring of any other variable. Defendant was ultimately sentenced to serve 10 to 30 years of imprisonment for the unlawful-imprisonment conviction, 10 to 20 years of imprisonment for each assault conviction, and 4 to 10 years of imprisonment for the domestic-violence conviction.

Defendant now appeals.

II. ANALYSIS

A. SUFFICIENCY OF THE EVIDENCE

Defendant first argues that the evidence was insufficient to support his conviction of unlawful imprisonment. We review de novo a defendant's challenge to the sufficiency of the evidence. *People v Xun Wang*, 505 Mich 239, 251; 952 NW2d 334 (2020). In our review, we "draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Baskerville*, 333 Mich App 276, 282-283; 963 NW2d 620 (2020).

MCL 750.349b provides that a defendant unlawfully imprisons another person if he knowingly restrains that other person under certain circumstances, including that the person was restrained to facilitate the commission of another felony. "Restrain means to forcibly restrict a person's movements or to forcibly confine the person so as to interfere with that person's liberty without that person's consent or without lawful authority." MCL 750.349b(3)(a) (cleaned up).

Defendant argues that at no time did he forcibly confine the victim to interfere with her ability to leave the room. This contention ignores the victim's testimony. Before she successfully fled the room, there were two instances where the victim was able to separate herself from defendant but was unable to escape from the vicinity due to defendant grabbing the victim by her neck. Further, by grabbing the victim, defendant was able to squeeze the victim's neck for a second and third time. Thus, the victim's testimony provided a sufficient basis for a rational jury to find that (1) defendant knowingly restrained the victim by forcibly restricting her movement, i.e., grabbing her by the neck so she could not move to a different area of the home, and (2) defendant's restraining of the victim facilitated defendant's assault on the victim.

B. OTHER-ACTS EVIDENCE

Defendant next argues that the trial court abused its discretion by admitting other-acts evidence via the testimony of defendant's former partner. We review de novo "both constitutional claims and preliminary questions of law regarding admissibility of evidence." *People v Duenaz*, 306 Mich App 85, 90; 854 NW2d 531 (2014). For the trial court's overall decision on whether to admit the evidence, we review for an abuse of discretion. *People v Denson*, 500 Mich 385, 396; 902 NW2d 306 (2017). An abuse of discretion occurs if the decision was outside the range of principled outcomes or an error of law occurred. *People v Yost*, 278 Mich App 341, 353; 749 NW2d 753 (2008).

Although generally the prosecutor cannot offer other-acts evidence to prove a defendant's character or demonstrate a defendant's propensity to engage in similar conduct, see MRE 404(b), relevant evidence of defendant's other acts of domestic violence may be admissible under MCL 768.27b when a defendant is accused of an offense involving domestic violence. Such evidence is still subject to MRE 403 and may be excluded if its probative value is substantially outweighed by a danger of unfair prejudicial effect. *People v Berklund*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367568), slip op at 10. When assessing the probative value and prejudicial effect, the trial court should consider "the necessary time to present the evidence, whether the evidence is needlessly cumulative, how directly probative the evidence is, how necessary the fact to be proven by the evidence is, whether the evidence would mislead the jury, and whether there is an alternative and less potentially harmful way to prove the fact." *People v Sharpe*, 502 Mich 313, 331-332; 918 NW2d 504 (2018). With respect to other-acts evidence specifically, the other acts and the charged crimes are analyzed to consider similarities, temporal proximity, frequency, intervening acts, reliability, and lack of need for the evidence. *People v Watkins*, 491 Mich 450, 487-488; 818 NW2d 296 (2012).

Defendant argues that because the other acts involving the former partner were too dissimilar to the victim's allegations in this case, the evidence was not admissible under MRE 403. Reviewing the testimony, the other acts involved defendant assaulting a former partner while intoxicated; the case at hand also involved defendant assaulting a former partner while intoxicated.

Although the assault in this case may be more severe than what occurred previously, the other acts were significantly useful to corroborate the victim's testimony and provide context to defendant's behavior in his relationships.

Further, the only alleged prejudice from the testimony was the danger of the jury convicting defendant because of a character trait instead of evidence of the crime charged. The jury, however, was instructed that it could not convict defendant solely because it believed him guilty of other bad conduct; rather, the evidence must convince it beyond a reasonable doubt that defendant committed the offenses for which he was on trial. Jurors are presumed to follow instructions. *People v Zitka*, 335 Mich App 324, 348; 966 NW2d 786 (2020). Thus, the possible unfair prejudice did not substantially outweigh the significant probative value of the former partner's testimony.

Additionally, defendant argues that MCL 768.27b is unconstitutional because it violates his due-process rights by allowing propensity evidence. This Court has held before that although a statute may allow a jury to consider other acts as evidence of a defendant's character and propensity to commit a crime including criminal sexual conduct or domestic violence, "it does not lower the quantum of proof or probative value of the evidence that the prosecution must present for conviction of the crime charged." *People v Muniz*, 343 Mich App 437, 461; 997 NW2d 325 (2022). Furthermore, MCL 768.27b is subjected to safeguards such as MRE 403 and the *Watkins* factors in order to protect defendants' rights. See *United States v LeMay*, 260 F3d 1018, 1026 (CA 9, 2001). Defendant has failed to demonstrate that these safeguards are illusory or otherwise defective such that MCL 768.27b is unconstitutional.

C. OV 8

As for sentencing, defendant argues that the trial court erred in assessing OV 8 at 15 points, or alternatively, that his trial counsel rendered ineffective assistance by failing to object to the scoring of OV 8. Because defendant did not preserve the issue of the scoring, we review for plain error, i.e., a clear or obvious error occurred that affected defendant's substantial rights. MCR 6.429(C); *People v Kimble*, 470 Mich 305, 312; 684 NW2d 669 (2004). We review defendant's claim of ineffective assistance of counsel for errors apparent on the record. *People v Horn*, 279 Mich App 31, 38; 755 NW2d 212 (2008).

OV 8 is scored at 15 points if a victim was asported—carried away or removed—"to another place of greater danger or to a situation of greater danger or was held captive beyond the time necessary to commit the offense." MCL 777.381(a); *People v Barrera*, 500 Mich 14, 21; 892 NW2d 789 (2017). Defendant argues that he did not asport the victim and that the victim was not held any longer than necessary to commit the assaults. But during one of the instances when the victim was able to separate herself from defendant during the assault and attempted to escape, she testified that defendant caught her and dragged her across the room. This dragging indicates that the victim was carried from one place to another. Additionally, the victim was in more danger after being dragged by defendant; she was farther from a safe exit and closer to defendant who posed a great risk to her. Cf. *People v Steele*, 283 Mich App 472, 491; 769 NW2d 256 (2009) ("places or situations of greater danger" include "places where others [are] less likely to see defendant committing crimes").

Furthermore, defendant continued to restrain the victim beyond the time necessary to commit the offense. Instead of simply assaulting the victim once by strangulation, defendant repeatedly thwarted the victim's attempted escapes and prolonged her suffering by keeping her captive in the bedroom. See *People v Chelmicki*, 305 Mich App 58, 70; 850 NW2d 612 (2014) (explaining that, because the crime of unlawful imprisonment "can occur when the victim is held for even a moment," ongoing conduct committed while restraining the victim can constitute holding the victim "longer that the time necessary to commit the offense"). Therefore, no error occurred in assessing OV 8 at 15 points on the basis of either asportation or prolonged captivity. Because OV 8 was properly scored at 15 points, defense counsel did not provide ineffective assistance by failing to object to such scoring. See *id*. at, 69.

III. CONCLUSION

Because there was sufficient evidence for defendant's convictions, including the properly admitted other-acts evidence, defendant is not entitled to reversal of the jury's verdict. Defendant has also not demonstrated errors pertaining to his sentencing. The scoring of OV 8 was accurate, and defense counsel did not provide ineffective assistance by failing to object to such scoring.

Affirmed.

/s/ Brock A. Swartzle
/s/ Matthew S. Ackerman
/s/ Christopher M. Trebilcock