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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v DEVONTA ARTEZ BANKS, Defendant-Appellant.	UNPUBLISHED October 21, 2026 9:55 AM No. 368657 Wayne Circuit Court LC No. 19-001532-01-FC
PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, V DEVONTA ARTEZ BANKS, Defendant-Appellant.	No. 368664 Wayne Circuit Court LC No. 18-008919-01-FH

Before: KOROBKIN, P.J., and RICK and MALDONADO, JJ.

PER CURIAM.

In Docket No. 368657, defendant appeals by right his convictions of felonious assault, MCL 750.82, assault with intent to do great bodily harm (AWIGBH), MCL 750.84, and two counts of possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. In Docket No. 368664, defendant appeals by right his convictions of extortion, MCL 750.213, using a computer to commit a crime with a maximum penalty of 20 years, MCL 752.797(3)(f), using a computer to commit a crime with a maximum penalty of 4 years, MCL 752.797(3)(d), and unlawful posting of a message with aggravating circumstances, MCL 750.411s(2)(b). We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

Defendant's convictions arose from a years-long dispute with Kenyuano Jones. Jones was the principal of Detroit Collegiate Preparatory High School at Northwestern in Detroit, Michigan. Defendant attended the school and participated in its Junior Reserve Officer Training Corps (JROTC) program. After graduating from another school, defendant returned to Collegiate as a JROTC volunteer during the 2015-2016 school year. Jones eventually removed defendant from that role because defendant repeatedly exceeded his authority as a volunteer. Jones told defendant that he could be considered for reinstatement if he completed the school district's volunteer training, but defendant did not do so. When defendant returned at the beginning of the next school year, Jones had him escorted from the building and warned him not to return without permission.

On September 7, 2016, Jones parked in his usual space at the school. As he got out of his vehicle, someone fired several shots toward him, shattering a window. Jones took cover and ran into the school without seeing the shooter. Police recovered bullets and cartridge casings from the scene.

Nearly two years later, Jones began receiving messages from an unknown sender. The individual claimed to be an underage girl who claimed to have had a sexual relationship with Jones. During a brief FaceTime call, a woman exposed her breasts while keeping her face outside the frame, and screenshots captured Jones's face beside the woman's exposed chest. The sender threatened to publish the images unless Jones resumed contact. Jones then found an envelope in his mailbox containing printed screenshots of the call and related messages, and he reported the harassment to police.

On August 21, 2018, the screenshots and accusations that Jones had had sex with a student appeared on social media under the username MrJones_lover. Detroit Public Schools placed Jones on administrative leave. Later that day, Jones discovered that someone had spray-painted his vehicle with messages calling him a pervert and warning him to stay away from district students. At approximately 3:00 a.m. the following morning, someone fired several shots into Jones's house. Jones was not injured.

Sergeant George Harris of the Detroit Public Schools Police Department obtained a warrant for information associated with the MrJones_lover Snapchat account. The resulting internet-protocol information led investigators to defendant and his residence. Officers searched the residence under a second warrant and recovered an iPhone, two iPads, and bullet fragments from the backyard. A third warrant authorized a forensic examination of the electronic devices. Evidence recovered from the devices indicated that defendant had arranged for his friend, SN, to participate in the FaceTime call and create the screenshots. Ballistics testing also linked casings from both shootings to casings recovered from defendant's backyard.

The prosecution charged defendant in three cases arising from the 2016 shooting, the 2018 harassment, and the 2018 shooting. The cases were consolidated for trial. After several changes of counsel and numerous suppression motions, defendant represented himself at trial with his retained attorney, Christopher Sinclair, serving as standby counsel. The jury acquitted defendant of the charges arising from the 2018 shooting. Regarding the 2016 shooting, it acquitted defendant of assault with intent to murder but convicted him of the lesser offense of AWIGBH, felonious

assault, and two counts of felony-firearm. The jury also convicted defendant of all charges arising from the 2018 harassment. This appeal followed.

II. ISSUES ON DIRECT APPEAL

A. ASSISTANCE AND WAIVER OF COUNSEL

Defendant first argues that he did not validly waive counsel because a fee dispute with Sinclair effectively forced him to represent himself. He also maintains that the trial court failed to provide the advice required by MCR 6.005(E) on each day of trial and that Sinclair rendered ineffective assistance as standby counsel. We disagree.

Defendant did not challenge the validity of his waiver on these grounds during trial. His waiver arguments are therefore unpreserved, and we review them for plain error affecting defendant's substantial rights. *People v Cain*, 498 Mich 108, 114-116; 869 NW2d 829 (2015).

Defendant preserved his ineffective-assistance claim by raising it in his motion for a new trial or a *Ginther*[1] hearing in February 2025. However, because no *Ginther* hearing was held, our review of that claim is limited to mistakes apparent on the record. *People v Mack*, 265 Mich App 122, 125; 695 NW2d 342 (2005). Whether a defendant received ineffective assistance of counsel presents a mixed question of fact and constitutional law; factual findings are reviewed for clear error, while constitutional questions are reviewed de novo. *People v Head*, 323 Mich App 526, 539; 917 NW2d 752 (2018).

The federal and state constitutions protect a criminal defendant's right to counsel and the right to self-representation. *People v King*, 512 Mich 1, 11; 999 NW2d 670 (2023). Before permitting self-representation, a trial court must substantially comply with MCR 6.005(D) and determine that the defendant unequivocally asserted the right, knowingly and voluntarily chose self-representation after being advised of its dangers, and would not unduly disrupt or burden the proceedings. *Id.* at 11-12, citing *People v Anderson*, 398 Mich 361, 367-368; 247 NW2d 857 (1976). A waiver that does not substantially satisfy these requirements is ineffective. *People v Russell*, 471 Mich 182, 191-192; 684 NW2d 745 (2004).

The record establishes a valid initial waiver. After jury selection, defendant told the court that he had studied court procedures and believed that he could present a better defense than Sinclair. The court advised defendant that one charge carried a 20-year maximum sentence and warned that self-representation increased the likelihood of conviction. Defendant confirmed that he understood those risks and nevertheless wished to proceed. Sinclair remained present and available to advise him. Defendant does not identify any deficiency in that colloquy under MCR 6.005(D) or *Anderson*.

Nor does the asserted fee dispute render the waiver involuntary. Before trial, defendant accused Sinclair of saying that he would not provide his best work because he had not been paid in full. Sinclair denied making that statement. When defendant renewed his request after jury

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

selection, he did not claim that Sinclair had refused to represent him or conditioned further representation on payment. Instead, defendant stated that he did not know what defense Sinclair intended to present and believed that he could do a better job himself. He wished to deliver his own opening statement and cross-examine witnesses. Sinclair likewise described a disagreement over strategy and a complete breakdown in the attorney-client relationship. On this record, defendant has not shown that a fee demand compelled his decision or that the trial court plainly erred by accepting his unequivocal request.

Defendant invokes MCR 6.005(E). The rule requires that "the record of each subsequent proceeding" must show that the court advised the defendant "of the continuing right to a lawyer's assistance" and that the defendant reaffirmed that "a lawyer's assistance is not wanted." The court confirmed defendant's decision on the second day of trial and reminded him of his right to counsel and Sinclair's availability. The court again cautioned defendant that he faced an experienced prosecutor. On most later trial days, the court made abbreviated inquiries, and defendant repeatedly reaffirmed his desire to proceed without counsel; on one day, the court did not renew the inquiry.

Any departure from the court rule does not require reversal. The renewed-waiver requirement is not itself constitutional, and noncompliance is reviewed under the plain-error rule. *People v Lane*, 453 Mich 132, 139-140; 551 NW2d 382 (1996); *People v Willing*, 267 Mich App 208, 224-225; 704 NW2d 472 (2005). MCR 6.005(E) refers to each subsequent "proceeding" and does not expressly treat every day of a continuous trial as a separate proceeding. More importantly, the record leaves no reasonable question that defendant remained aware of his right to counsel and continued to reject it. He therefore has not established a clear or obvious error that affected the outcome.

To the extent that defendant separately argues that Sinclair rendered ineffective assistance before defendant elected to represent himself, the claim also fails. To establish ineffective assistance, "the defendant must show that counsel's performance fell below an objective standard of reasonableness." *People v Armstrong*, 490 Mich 281, 290; 806 NW2d 676 (2011). "Second, the defendant must show that, but for counsel's deficient performance, a different result would have been reasonably probable." *Id*. Although defendant alleged that Sinclair demanded additional payment and stated that he would not perform his best work, Sinclair disputed that account. The existing record does not establish that Sinclair refused to represent defendant or failed to perform any particular required act before defendant elected to represent himself. Defendant therefore has not established deficient performance or prejudice on the existing record.

Finally, defendant cannot obtain relief on the ground that Sinclair provided inadequate assistance after defendant chose to represent himself, at which point Sinclair was serving as standby counsel. "[A] defendant who asserts his right to self-representation has no absolute entitlement to standby counsel." *People v Kevorkian*, 248 Mich App 373, 422; 639 NW2d 291 (2001). Accordingly, "[w]ith no constitutional right to an attorney, a defendant proceeding *in propria persona* has no basis to claim that the attorney must abide by constitutional standards." *Id*. at 424. Put differently, a defendant who elects self-representation has no constitutional right to standby counsel and thus cannot demand constitutionally effective assistance from an attorney serving only in that role. Defendant's ineffective-assistance claims therefore fail.

B. FORENSIC SEARCH OF DEFENDANT'S DEVICES

Defendant next argues, in both his counsel-filed brief and his own Standard 4 brief, that the warrant authorizing a forensic examination of his electronic devices lacked particularity and permitted a general search. We disagree.

Although defendant filed several pretrial motions to suppress, he did not clearly develop this argument until he filed his motion for a new trial or a *Ginther* hearing. The issue is therefore unpreserved, and we review it for plain error affecting defendant's substantial rights. *Cain*, 498 Mich at 114-116.

The Fourth Amendment requires a warrant to particularly describe the place to be searched and the persons or things to be seized. US Const, Am IV; see also Const 1963, art 1, § 11. In the context of digital data, the particularity requirement prevents officers from using a warrant as authority to search an entire device for evidence of any possible crime. *People v Hughes*, 506 Mich 512, 541-543; 958 NW2d 98 (2020). A lawful forensic search must remain reasonably directed toward the evidence identified in the warrant. *Id.* at 543.

Defendant relies on *People v Carson*, ___ Mich ___; ___ NW3d ___ (2025) (Docket No. 166923), in which the lead opinion concluded that a warrant authorizing a search of "any and all data" on a cell phone was insufficiently particular. *Id*. at ___; slip op at 17-23. The lead opinion identified temporal restrictions and limitations on the categories of data to be searched as means of satisfying the particularity requirement. *Id*. at ___; slip op at 20-23. Defendant argues that the warrant here was similarly deficient because it imposed no temporal limitation and did not identify particular applications or categories of data to be searched. We need not decide whether those omissions rendered the warrant insufficiently particular because, even assuming a constitutional defect, suppression was not warranted.

The exclusionary rule does not apply when officers objectively and reasonably rely on a search warrant. *United States v Leon*, 468 US 897, 922; 104 S Ct 3405; 82 L Ed 2d 677 (1984); *People v Goldston*, 470 Mich 523, 541; 682 NW2d 479 (2004). The warrant was issued in 2018, before our Supreme Court's decisions in *Hughes* and *Carson*. It tied the authorized search to specific alleged conduct. Nothing suggests that the officers misled the issuing court or abandoned the warrant's stated objective. The warrant was not so facially deficient that a reasonably well-trained officer necessarily would have known that it was invalid. The evidence was therefore admissible under the good-faith exception, and defendant cannot establish an outcome-determinative plain error.

C. PRIOR TESTIMONY OF AN UNAVAILABLE WITNESS

Defendant next challenges the admission of the preliminary-examination testimony of his former girlfriend, AM, who testified that defendant admitted to perpetrating both shootings and vandalizing Jones's vehicle. The trial court determined AM was unavailable. She was seven months pregnant and could not travel to Michigan for trial. Defendant argues that his prior opportunity to cross-examine AM was inadequate because he had not yet received one of her police statements. He also argues that AM should have testified remotely. We disagree.

Defendant preserved his challenge to the adequacy of his prior opportunity to cross-examine AM but did not argue below that she should testify remotely. We review preserved constitutional questions de novo and a trial court's decision to admit evidence for an abuse of discretion. *People v Fackelman*, 489 Mich 515, 524; 802 NW2d 552 (2011); *People v Edwards*, 328 Mich App 29, 34; 935 NW2d 419 (2019). We review defendant's unpreserved claim for plain error affecting his substantial rights. *Cain*, 498 Mich at 114-116.

Under the version of MRE 804 in effect at defendant's trial, a witness who could not be present because of a then-existing physical illness or infirmity was considered unavailable. Former testimony by an unavailable witness was admissible if the opposing party previously had an opportunity and similar motive to develop the testimony through examination. MRE 804(a)(4); MRE 804(b)(1). Admission of former testimony also satisfies the Confrontation Clause when the trial court deems the witness unavailable and the defendant had a prior opportunity for cross-examination. *People v Garland*, 286 Mich App 1, 7; 777 NW2d 732 (2009), citing *Crawford v Washington*, 541 US 36, 68; 124 S Ct 1354; 158 L Ed 2d 177 (2004).

Defendant has not shown that AM's earlier police statement deprived him of a meaningful opportunity to cross-examine her. The statement reported that defendant hated Jones because Jones had prevented him from graduating and that defendant had fired a gun in his backyard. Defendant identifies no material inconsistency between that statement and AM's later account, much less one that would have materially altered cross-examination at the preliminary examination. Because defendant had both an opportunity and a similar motive to examine AM, admission of her prior testimony did not violate MRE 804(b)(1) or the Confrontation Clause.

Defendant's alternative argument concerning remote testimony is unpreserved. He never asked the trial court to employ that procedure, so the court made no ruling on whether it was available or appropriate. See *Edwards*, 328 Mich App at 34. Nor has defendant explained how AM's remote testimony at trial would have affected the outcome. Defendant had already cross-examined her at the preliminary examination, and he identifies no material impeachment evidence that the previously undisclosed statement would have supplied. He therefore has not established plain error affecting his substantial rights.

III. DEFENDANT'S REMAINING STANDARD 4 CLAIMS

A. SNAPCHAT WARRANT

Defendant argues that the warrant served on Snapchat lacked probable cause because the supporting affidavit did not identify the source of the information connecting the MrJones_lover account to the posts about Jones. He also maintains that the warrant was overbroad. We disagree.

Defendant raised these challenges in his suppression motions, preserving them for review. We review a trial court's factual findings at a suppression hearing for clear error and its ultimate constitutional ruling de novo. *People v Fosnaugh*, 248 Mich App 444, 450; 639 NW2d 587 (2001).

"A magistrate shall only issue a search warrant when he or she finds that there is a fair probability that contraband or evidence of a crime will be found in a particular place." *People v Franklin*, 500 Mich 92, 101; 894 NW2d 561 (2017). A magistrate's probable-cause determination "should be given great deference and only disturbed in limited circumstances." *Id*. Further, "[a]

crime victim, in contrast to an underworld informant, is presumptively reliable," and the "self-authenticating details of the crime" may independently establish the reliability of the information supplied. *People v Powell*, 201 Mich App 516, 521-523; 506 NW2d 894 (1993).

The affidavit described the messages, the FaceTime call, the screenshots left at Jones's home, and the public accusations made under the name MrJones_lover. Defendant emphasizes that Jones did not use Snapchat and that the affidavit did not explain who first identified the account. But the omission of that source did not defeat probable cause. The timing of the posts and their use of images taken during the harassment directly connected the MrJones_lover account to the crimes under investigation. Those facts presented a substantial basis to conclude that Snapchat possessed identifying information and records concerning the perpetrator. Defendant also has not shown that Sergeant Harris intentionally or recklessly included a false statement or omitted material information. See *People v Mullen*, 282 Mich App 14, 22-24; 762 NW2d 170 (2008).

The warrant was also sufficiently particular. The warrant identified a single target account and limited the requested records to August 1 through August 21, 2018. It specified categories of information, including subscriber and profile information, transactional records, stored communications, and internet-protocol addresses associated with the account. These limits directed the search toward evidence identifying the person who created and used MrJones_lover during the charged harassment. The warrant therefore did not authorize an unrestricted search, and the trial court properly denied suppression.

B. WARRANT TO SEARCH DEFENDANT'S HOME

Defendant lastly argues that the warrant to search his home lacked probable cause to authorize the seizure of firearms and ammunition and was overbroad. We disagree.

A magistrate's probable-cause determination is reviewed to determine whether the affidavit supplied a substantial basis for finding a fair probability that evidence of a crime would be found in the specified place. *Franklin*, 500 Mich at 101. "Rather than engage in hypertechnical after-the-fact scrutiny of affidavits, we give great deference to the magistrate's decision because of our preference for the use of search warrants." *People v Stumpf*, 196 Mich App 218, 227; 492 NW2d 795 (1992).

The affidavit explained that records obtained from Snapchat had identified defendant and his residence on August 22, 2018. It also described the escalating harassment: accusations against Jones had been posted online, his vehicle had been spray-painted on August 21, and someone fired into his occupied home early the next morning. From the timing and progression of those acts, the magistrate could reasonably infer that the person responsible for the online harassment was involved in the shooting and that evidence of the shooting, including the firearm or ammunition, would be found at the residence. Those facts sufficiently connected defendant's residence to the suspected crimes.

Nor was the warrant overbroad. It identified concrete categories of evidence connected to the shooting, including firearms, ammunition, records of firearm ownership or purchase, and devices capable of facilitating a shooting into an occupied dwelling. Because the affidavit

established probable cause to search for those items and the warrant described them with adequate particularity, the trial court properly denied defendant's motion to suppress.

Affirmed.

/s/ Daniel S. Korobkin
/s/ Michelle M. Rick
/s/ Allie Greenleaf Maldonado