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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellant, v MARCUS CHRISTOPHER SHAMILY, JR., Defendant-Appellee.	UNPUBLISHED October 21, 2026 10:29 AM No. 379664 Wayne Circuit Court LC No. 25-006974-01-FH

Before: MURRAY, P.J., and BOONSTRA and RIORDAN, JJ.

PER CURIAM.

The prosecution appeals by leave granted[1] the circuit court's order denying the prosecution's motion to reinstate defendant's charge of assault with intent to murder (AWIM), MCL 750.83, after the district court declined to bind over on that charge. We vacate the order and remand for further proceedings consistent with this opinion.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

During defendant's preliminary examination, the complainant, Andre Ash, testified that defendant attacked him with a knife in October 2025. According to Ash, he was working as a security guard for an apartment complex on the night of the incident. Ash saw two people use their key to unlock and enter the building's lobby, and then defendant walked in through the open door behind them. Because defendant did not use a key to enter the building, Ash asked defendant if he was visiting someone.

Defendant got upset, began arguing with Ash, and refused to sign the apartment's guest book. Ash said to defendant, "[G]o ahead and do what you're going to do." Ash testified that defendant brandished a knife. He lunged twice at Ash, swinging his knife in a forward motion,

[1] In the same order, this Court granted the prosecution's motion for stay pending appeal. *People v Shamily*, unpublished order of the Court of Appeals, entered March 31, 2026 (Docket No. 379664).

and Ash slipped and fell on the wet floor. Defendant jumped on top of Ash, still swinging the knife, and he stabbed Ash in the hand three times. Ash heard defendant say, "I'm gonna cut your face now," before defendant swung the knife toward Ash's face and head again, cutting the top right side of Ash's head. At some point, Ash was also cut on his stomach and the back of his neck. As they "wrestled around," Ash was able to get the knife out of defendant's hand and pivot so that he was on top of defendant. When the police arrived, Ash got off of defendant and gave the knife to the officers.

Defendant was arrested and charged with AWIM; assault with intent to do great bodily harm (AWIGBH), MCL 750.84; and assault with a dangerous weapon, MCL 750.82. After Ash's testimony at the preliminary examination, the district court held that there was no evidence that defendant had intended to kill Ash, dismissed the AWIM charge for lack of probable cause, and bound defendant over for trial on the remaining charges. The prosecution moved in the circuit court to reinstate the AWIM charge, but the circuit court denied the motion. This interlocutory appeal followed.

II. PROBABLE CAUSE

The prosecution argues that the circuit court erred by denying its motion to amend the information to reinstate the AWIM charge and that the district court abused its discretion when it initially found that there was no probable cause to support a bindover on the AWIM charge. We agree.

A. STANDARD OF REVIEW

"This Court's review of the circuit court's analysis of the bindover is de novo." *People v Reigle*, 223 Mich App 34, 36; 566 NW2d 21 (1997). "[W]e do not defer to the circuit court's determination to any extent; instead, we examine the district court's decision to determine whether it abused its discretion in [not] ordering the bindover." *People v Greene*, 255 Mich App 426, 434; 661 NW2d 616 (2003). "[T]his Court applies the same standard of review to this issue as the circuit court," and therefore reviews the circuit court's decision "only to the extent that it is consistent with the district court's exercise of discretion." *People v Schurr*, 350 Mich App 47, 66; 29 NW3d 511 (2024) (quotation marks and citation omitted). An abuse of discretion occurs when the lower court's "decision falls outside the range of reasonable and principled outcomes." *People v Caswell*, 336 Mich App 59, 69; 969 NW2d 538 (2021) (quotation marks and citation omitted).

B. ANALYSIS

The Legislature has mandated preliminary examinations for felony charges. *People v Plunkett*, 485 Mich 50, 56; 780 NW2d 280 (2010). A preliminary hearing is held to determine (1) whether a felony has been committed and (2) whether there is probable cause for charging the defendant with that crime. *Id.* at 57. Our Supreme Court has described the probable-cause standard as follows:

> [P]robable cause requires a quantum of evidence sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief of the accused's guilt. This standard is less rigorous than the requirement to find guilt

> beyond a reasonable doubt to convict a criminal defendant, and the gap between probable cause and guilt beyond a reasonable doubt is broad . . . . [*Id.* (quotation marks and citations omitted; alteration in original).]

"A district court may not weigh the evidence to determine the likelihood of conviction. Instead, the district court *must* bind over the defendant for trial if the prosecution presents sufficient evidence, even if the evidence conflicts or raises a reasonable doubt about the defendant's guilt." *Schurr*, 350 Mich App at 71 (emphasis added).

To satisfy the burden of demonstrating probable cause, "the prosecution must present evidence of each and every element of the charged offense, or enough evidence from which an element may be inferred." *People v Fairey*, 325 Mich App 645, 649; 928 NW2d 705 (2018). "The elements of assault with intent to commit murder are: (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing murder." *People v Brown*, 267 Mich App 141, 147; 703 NW2d 230 (2005) (quotation marks and citations omitted). The prosecution only challenges the district court's finding that there was no evidence of an actual intent to kill.

The intent to kill distinguishes AWIM from AWIGBH:

> [T]he specific intent to do great bodily harm, otherwise described as the intent to do serious injury of an aggravated nature, while sufficient to prove the crime of second-degree murder and assault with intent to do bodily harm less than murder, is less than the specific intent to kill necessary to sustain a conviction of assault with intent to commit murder. . . .
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> * * *
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> > [A]n intent to kill for purposes of [AWIM] *may not* be proven by an intent to inflict great bodily harm or a wanton and wilful disregard of the likelihood that the natural tendency of the acts will likely cause death or great bodily harm.
>
> [*Id*. at 149-150 (quotation marks and citations omitted; emphasis added).]

"[B]ecause of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient." *People v Ericksen*, 288 Mich App 192, 197; 793 NW2d 120 (2010) (quotation marks and citation omitted). Intent may be inferred from any evidence, including the following:

> The requisite intent may be gleaned from the nature of the defendant's acts constituting the assault; the temper or disposition of mind with which they were apparently performed, whether the instrument and means used were naturally adapted to produce death, his conduct and declarations prior to, at the time, and after the assault, and all other circumstances calculated to throw light upon the intention with which the assault was made. [*Brown*, 267 Mich App at 149 n 5 (quotation marks and citations omitted).]

In *Ericksen*, 288 Mich App at 195, the defendant was convicted of AWIM after stabbing a man several times in the back with a knife, resulting in severe medical complications. This Court inferred the defendant's intent to kill the victim from the circumstances of the assault:

> The evidence at trial established that defendant secreted a knife before leaving with his companions to confront [the victim]. In addition, defendant told his companions that he had "stuck [the victim] five times." A trier of fact could reasonably have interpreted this statement as an admission that he knowingly stabbed the victim many times. The medical evidence showed that [the victim's] right back had four knife wounds. Defendant's intent could be inferred from any facts in evidence, including the nature, extent, and location of these wounds. [*Id*. at 196.]

In this case, the prosecution provided evidence that after arguing for several minutes with Ash, defendant repeatedly stabbed and swung a knife toward Ash's head and face, and during the assault, defendant told Ash that he would cut his face. Although defendant made no direct statement that he intended to kill Ash, one could infer such an intent from the relentless assault and the extreme force that defendant used when swinging the blade. Ash testified that he was stabbed in the hand because he used his hands to shield his face, and the wounds were serious enough to require surgery to repair the muscles, tendons, and nerves in the hand. If Ash's defensive maneuvers had been unsuccessful, then he would have suffered those injuries to his head and likely could have died. Defendant's argument that his actions demonstrated only an intent to cause great bodily harm is a factual question, and "[t]he fact that the victim did not suffer more or greater injuries than she did disproves nothing [regarding defendant's intent], and it is the role of the jury, not this Court, to weigh the evidence." *People v Dillard*, 303 Mich App 372, 378; 845 NW2d 518 (2013), overruled in part on other grounds by *People v Barrera*, 500 Mich 14; 892 NW2d 789 (2017). Defendant's theory of the case "did not preclude a bindover of defendant where there was sufficient other proof" of the requisite intent. *People v Yost*, 468 Mich 122, 131; 659 NW2d 604 (2003). Here, the prosecution's evidence established probable cause to believe that defendant had the actual intent to kill Ash.

A bindover is required when probable cause exists to support each of the elements of a crime. *Id*. at 126. Although the district court has the authority to consider the credibility of the witnesses, it cannot "refuse to bind a defendant over for trial when the evidence conflicts or raises reasonable doubt of the defendant's guilt." *Id*. at 128. Indeed, the district court "may legitimately find probable cause while personally entertaining some reservations regarding guilt." *Id*. at 133-134. In this case, the district court stated that the prosecution had to show the intent to kill "from what happened or show it from, you know, the words of the defendant . . . and I don't have that here." But even if the district court personally believed that defendant did not intend to kill Ash, the conflicting evidence from the vicious nature of the assault and the extent of Ash's injuries created probable cause to support an AWIM charge. Because defendant's intent is a factual question that should be addressed in the circuit court, the district court abused its discretion when it refused to bind defendant over for trial on that charge. Therefore, the circuit court necessarily erred when it denied the prosecution's motion to reinstate the AWIM charge. See *Greene*, 255 Mich App at 434.

Vacated and remanded for proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Christopher M. Murray
/s/ Mark T. Boonstra
/s/ Michael J. Riordan