APPENDIX - A

Michigan Supreme Court Order

Dated May 26, 2020

MSC No. 161153

Order

Michigan Supreme Court
Lansing, Michigan

May 26, 2020

161153

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 161153
COA: 335955
Wayne CC: 16-002935-FC

JOHNATHAN LAMAR BURKS,
Defendant-Appellant.

/

On order of the Court, the application for leave to appeal the February 27, 2020 judgment of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the question presented should be reviewed by this Court.

t0518

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 26, 2020

Clerk

APPENDIX - B

Michigan Court of Appeals

Per Curiam Opinion

Dated February 27, 2020

COA No. 335955

STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHNATHAN LAMAR BURKS,

Defendant-Appellant.

UNPUBLISHED
February 27, 2020

No. 335955
Wayne Circuit Court
LC No. 16-002935-03-FC

ON REMAND

Before: K. F. KELLY, P.J., and CAVANAGH and RIORDAN, JJ.

PER CURIAM.

This case returns to us by order of our Supreme Court for reconsideration of defendant's sentence in light of *People v Beck*, 504 Mich ___; ___ NW2d ___ (2019) (Docket No. 152934). *People v Burks*, ___ Mich ___ (2019) (Docket No. 157838). Once again, we affirm defendant's sentence of 18 to 40 years' imprisonment for first-degree home invasion, MCL 750.110a(2).

I. BASIC FACTS AND PROCEDURAL HISTORY

Defendant was convicted for his role in aiding and abetting his two co-defendants in a shooting that was precipitated by a dispute over tennis shoes. One of defendant's accomplices burst into a home and shot three people. A three-year-old child died as a result of the shooting, and two adults were injured. Although the jury acquitted defendant of murder and assault charges, he was convicted of first-degree home invasion and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced as a third-habitual offender, MCL 769.11, to 18 to 40 years' imprisonment for the home invasion conviction and two-years' imprisonment for the felony-firearm conviction. On appeal, we rejected defendant's challenge to the trial court's failure to submit the defense of duress to the charges before the jury and the claim that the home invasion sentence was unreasonable. *People v Burks*, unpublished per curiam opinion of the Court of Appeals issued April 3, 2018 (Docket No. 335955). In lieu of granting defendant's application for leave to appeal, our Supreme Court vacated this Court's judgment addressing the sentence for first-degree home invasion and remanded for reconsideration, but denied leave in all other respects.

II. APPLICABLE LAW

A sentence that departs from the applicable guidelines range will be reviewed by an appellate court for reasonableness, and there is no requirement that the sentencing court articulate a substantial and compelling reason for that departure. *People v Lockridge*, 498 Mich 358, 364-365, 391-392; 870 NW2d 502 (2015). The legislative sentencing guidelines are advisory, and the appropriate inquiry when reviewing a sentence for reasonableness is whether the trial court abused its discretion by violating the principle of proportionality. *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017). On appeal, the reasonableness of a sentence is reviewed for an abuse of discretion. *Id.* at 471. To determine whether a departure sentence is more proportionate than a sentence within the guidelines range, the trial court should consider whether the guidelines accurately reflect the seriousness of the crime, factors not considered by the guidelines, and factors considered by the guidelines, but given inadequate weight. *People v Dixon-Bey*, 321 Mich App 490, 525; 909 NW2d 458 (2017). To facilitate appellate review, the trial court must justify the sentence imposed with an explanation of why the sentence imposed is more proportionate to the offense and the offender than a different sentence would have been. *Id.*

In *Beck*, our Supreme Court addressed the propriety of considering acquitted conduct when sentencing. In that case, the defendant was convicted of felon in possession of a firearm, fourth offense, and felony-firearm, second offense, but acquitted of open murder and additional attendant weapon offenses. The sentencing judge imposed a departure sentence that, in part, relied on his finding by a preponderance of the evidence that the defendant had committed the murder of which the jury had acquitted him. *Id.* at ___; slip op at 3. Our Supreme Court held that the sentencing court improperly relied on acquitted conduct to sentence defendant, stating:

> When a jury has made no findings (as with uncharged conduct, for example), no constitutional impediment prevents a sentencing court from punishing the defendant as if he engaged in that conduct using a preponderance of the evidence standard. But when a jury has specifically determined that the prosecution has not proven beyond a reasonable doubt that a defendant engaged in certain conduct, the defendant continued to be presumed innocent. "To allow the trial court to use at sentencing an essential element of a greater offense as an aggravating factor, when the presumption of innocence was not, at trial, overcome as to this element, is fundamentally inconsistent with the presumption of innocence itself." [*Id.* at ___; slip op at 18-19 (citations and footnote omitted).]

Accordingly, conduct that is safeguarded by the presumption of innocence may not be evaluated using the preponderance of the evidence standard without violating due process. *Id.* at ___; slip op 19. The *Beck* Court defined the term "acquitted conduct" as conduct that "has been formally charged and specifically adjudicated by a jury." *Id.* at ___; slip op 13.

III. ANALYSIS

On remand, defendant contends that the trial court improperly considered the murder of a three-year-old child in sentencing defendant above the advisory guidelines contrary to *Beck* because he was acquitted of that crime. We disagree.

Although defendant's minimum sentence guidelines range was calculated at 57 to 142 months, the court imposed a minimum term of 216 months (18 years) for the home invasion, exceeding the top end of the guidelines range by approximately six years. The trial court explained its sentence by stating:

> Well, [defendant], if you have a small child, then you of all people should have known that possible harm and what possible heartache could come from gunfire being utilized in a small residential place where there was a three-year-old child.
>
> In this particular case you mobilized an angry, volatile young person that you knew to be angry and volatile, and who had a penchant for using guns to come over and rally with you because of someone's missing tennis shoes.
>
> A three-year old child has no future. There is a heartache for that family because it was your idea. You were the one who instigated the phone call and all of the action that led to a three-year old child being murdered on Easter Sunday.
>
> I know that your position has been that you did not do anything, that you were just there watching. Well, the jury didn't believe that, and I don't believe that. Nobody brings spectators to a murder. You were involved. You were there in the car with the shooter driving there, and you were there with the shooter driving away, and you were prepared to be the wheel man to drive away. And, but for your active involvement, that three-year old child would be alive today. You bear enormous responsibility.

The trial court additionally remarked that the guidelines did not adequately reflect the serious harm that resulted. Although trial court commented on the death that resulted from the shooting, the trial court did not equate defendant's conduct with the murder and sentence him accordingly for an acquitted murder. Rather, the trial court cited to defendant's role in the killing as a catalyst for the circumstances that were placed into motion and the individuals prone to violence that defendant brought into the fray over tennis shoes. We conclude that sentencing court's rationale for imposing its sentence did not violate *Beck* and adhere to our prior rejection of defendant's contention that the sentence was improperly premised on acquitted conduct:

> Defendant argues that his sentence was not reasonable or proportionate because he was acquitted of aiding and abetting in the three-year-old's death, because he did not carry a gun to the scene of the crime, and because he did not have any previous "high" felonies. However, despite the jury's determination that the prosecutor failed to prove beyond a reasonable doubt that defendant aided and abetted in the murder or as to AWIM, there was evidence that defendant's actions set in motion the events leading to the shooting death and injuries. As noted by the trial court, defendant's behavior in being a part of the group that produced the death and injuries in retaliation for what defendant thought had been an assault on his brother was not adequately accounted for in the sentencing guidelines. Contacting a violent person, knowing that he is violent and utilizes firearms, immediately after learning of his brother's situation, along with participating in the retaliation,

defendant properly shares the blame for the carnage, at least for purposes of a sentencing departure. The trial court's view that defendant's phone call to the gunman over stolen shoes was the catalyst for the crimes, in contrast to defendant's view that he was merely a spectator, was supported by the evidence. Defendant also has two prior felonies. The trial court did not abuse its discretion in imposing the upward departure, as the minimum sentence of 18 years was proportionate to the seriousness of the circumstances surrounding the offense and the offender. [*Burks*, slip op at 4-5.]

Finally, defendant contends that we must reconsider the score of 100 points imposed for offense variable (OV) 3, addressing physical injury to a victim. "When a case is remanded by an appellate court, proceedings on remand are limited to the scope of the remand order." *People v Canter*, 197 Mich App 550, 567; 496 NW2d 336 (1992). Our Supreme Court remanded for consideration of the impact of the *Beck* decision and did not include any direction regarding the score of the offense variables. Accordingly, we do not address it.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Mark J. Cavanagh
/s/ Michael J. Riordan

APPENDIX - C

Michigan Supreme Court Order

Dated November 27, 2019

MSC No. 157838

Order

Michigan Supreme Court
Lansing, Michigan

November 27, 2019

157838

Bridget M. McCormack,
Chief Justice

David F. Viviano,
Chief Justice Pro Tem

Stephen J. Markman
Brian K. Zahra
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 157838
COA: 335955
Wayne CC: 16-002935-FC

JOHNATHAN LAMAR BURKS,
Defendant-Appellant.

/

By order of October 30, 2018, the application for leave to appeal the April 3, 2018 judgment of the Court of Appeals was held in abeyance pending the decisions in *People v Beck* (Docket No. 152934) and *People v Dixon-Bey* (Docket No. 156746). On order of the Court, *Beck* having been decided on July 29, 2019, 504 Mich ___ (2019), and leave to appeal having been denied in *Dixon-Bey* on July 29, 2019, 504 Mich ___ (2019), the application is again considered. Pursuant to MCR 7.305(H)(1), in lieu of granting leave to appeal, we VACATE that part of the judgment of the Court of Appeals addressing the defendant's sentence for home invasion, and we REMAND this case to that court for reconsideration in light of *Beck*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining question presented should be reviewed by this Court.

t1120

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

November 27, 2019

Clerk

APPENDIX - D

Michigan Supreme Court Order

Dated October 30, 2018

MSC No. 157838

Order

Michigan Supreme Court
Lansing, Michigan

October 30, 2018

Stephen J. Markman,
Chief Justice

Brian K. Zahra
Bridget M. McCormack
David F. Viviano
Richard H. Bernstein
Kurtis T. Wilder
Elizabeth T. Clement,
Justices

157838

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 157838
COA: 335955
Wayne CC: 16-002935-FC

JOHNATHAN LAMAR BURKS,
Defendant-Appellant.

/

On order of the Court, the application for leave to appeal the April 3, 2018 judgment of the Court of Appeals is considered and, it appearing to this Court that the cases of *People v Dixon-Bey* (Docket No. 156746) and *People v Beck* (Docket No. 152934) are pending on appeal before this Court and that the decisions in those cases may resolve an issue raised in the present application for leave to appeal, we ORDER that the application be held in ABEYANCE pending the decisions in those cases.

s1022

I, Larry S. Royster, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 30, 2018

Clerk

APPENDIX - E
Michigan Court of Appeals
Per Curiam Opinion
Dated April 3, 2018
COA No. 335955

STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHNATHAN LAMAR BURKS,

Defendant-Appellant.

UNPUBLISHED
April 3, 2018

No. 335955
Wayne Circuit Court
LC No. 16-002935-03-FC

Before: K. F. KELLY, P.J., and MURPHY and RIORDAN, JJ.

PER CURIAM.

Following a jury trial, defendant appeals as of right his convictions of first-degree home invasion, MCL 750.110a(2), and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant as a third-habitual offender, MCL 769.11, to consecutive prison terms of 18 to 40 years for the home invasion conviction and two years for the felony-firearm conviction. We affirm.

Defendant was convicted for aiding and abetting his two co-defendants, one of whom burst into a home, shooting three people in retaliation for an earlier incident. A three-year-old child died as a result of the shooting and two adults were injured.[1] On appeal, defendant sets forth claims of error regarding the defense of duress, along with maintaining that his home invasion sentence, which reflected a departure from the minimum guidelines range, was not reasonable.

With respect to the defense of duress, it was not raised by defense counsel at trial, so there was no jury instruction on duress and the jurors were not directed to resolve any questions concerning duress. However, the jury posited a question during its deliberations regarding

[1] The jury acquitted defendant of first-degree premeditated murder, MCL 750.316(1)(a), first-degree felony murder, MCL 750.316(1)(b), two counts of assault with intent to commit murder (AWIM), MCL 750.83, and discharge of a firearm at a building causing death, MCL 750.234b(5).

ineffective counsel

whether duress or coercion negated criminal responsibility,[2] and the trial court informed the jurors that such a defense had not been presented and that duress is not a defense to the charged crimes, certainly as to the murder, AWIM, and discharged-firearm offenses that defendant was facing, for which he was later acquitted. Defendant argues that he was denied due process and a fair trial when the court refused to explain to the jury that duress is indeed a defense to home invasion and felony-firearm.

In *People v Lemons*, 454 Mich 234, 245-247; 562 NW2d 447 (1997), our Supreme Court explained the defense of duress:

> Duress is a common-law affirmative defense. It is applicable in situations where the crime committed avoids a greater harm. The reasons underlying its existence are easy to discern:
>
> "The rationale of the defense of duress is that, for reasons of social policy, it is better that the defendant, faced with a choice of evils, choose to do the lesser evil (violate the criminal law) in order to avoid the greater evil threatened by the other person."
>
> In order to properly raise the defense, the defendant has the burden of producing some evidence from which the jury can conclude that the essential elements of duress are present. . . . [A] defendant successfully carries the burden of production where the defendant introduces some evidence from which the jury could conclude the following:
>
> A) The threatening conduct was sufficient to create in the mind of a reasonable person the fear of death or serious bodily harm;
>
> B) The conduct in fact caused such fear of death or serious bodily harm in the mind of the defendant;
>
> C) The fear or duress was operating upon the mind of the defendant at the time of the alleged act; and
>
> D) The defendant committed the act to avoid the threatened harm. [Citations and quotation marks omitted.]

Duress concerns a situation where a defendant admits having committed the charged crime, but attempts to justify, excuse, or mitigate it; it does not negate the elements of the crime. *Id.* at 246 n 15. A threat of future injury does not support the defense of duress; rather, the threatening conduct or act of compulsion must be impending, imminent, and present. *People v Henderson*, 306 Mich App 1, 5; 854 NW2d 234 (2014). The threat underlying a claim of duress must not

[2] Evidently, the jurors, on their own initiative, conceived of the possibility that defendant acted under duress or was coerced.

have arisen out of the negligence or fault of the person pursuing the defense. *Id.* Duress is not a defense to murder, aiding and abetting a murder, and AWIM. *Id.* at 5-8. Finally, we note that jury instructions must include all of the elements of the charged crimes and cannot exclude material issues, defenses, or theories where there is supporting evidence. *People v McKinney*, 258 Mich App 157, 162-163; 670 NW2d 254 (2003).

We shall proceed on the assumption that duress is a defense to first-degree home invasion and felony-firearm. The trial court should have simply informed the jury that duress was not a defense being raised by defendant. Instead, the court proceeded to additionally state that duress is not a defense under the law to any of the charged crimes, with the court then backtracking somewhat by indicating that duress is certainly not a defense to homicide, AWIM, and discharging a firearm, thereby perhaps suggesting that it might be a defense to first-degree home invasion and felony-firearm. However, the trial court's overall answer could reasonably have been construed as indicating that duress could not be considered by the jurors on all of the charged crimes. Defendant insists that the trial court should have expressly and clearly told the jury that duress is a defense to the crimes upon which defendant was convicted, i.e., first-degree home invasion and felony-firearm. The problem with this argument is that there existed no basis for giving a duress instruction in the first place, as there was inadequate evidence supporting an instruction on duress under the elements enunciated in *Lemons*, 454 Mich at 246-247. Therefore, given that defendant was not entitled to a jury instruction on duress even had it been requested, the fact that the trial court effectively removed the issue from the jury's consideration cannot be deemed a violation of due process or the right to a fair trial. Defendant had no right to have the jury contemplate the defense of duress, and reversal is unwarranted.[3]

Additionally, we also reject defendant's associated argument that defense counsel was ineffective for not requesting that the trial court, in response to the jury's inquiry, explain to the jurors that duress is a defense to first-degree home invasion and felony-firearm. Again, defendant was not legally entitled to a duress instruction, which is essentially what he would have received had the court informed the jury that duress is a defense. Counsel is not ineffective for failing to raise futile or meritless arguments. *People v Erickson*, 288 Mich App 192, 201; 793 NW2d 120 (2010).[4]

---

[3] Moreover, even if there was adequate evidence of duress, it would not have been appropriate for the trial court to allow the jurors to consider the defense, as, once again, it was not a defense raised by defense counsel at trial. Because a duress defense was not raised, the prosecutor had no need or reason to present evidence to attempt to counter the defense or to argue against the defense. Defendant's position on appeal would have effectively and unfairly deprived the prosecution of challenging the defense of duress.

[4] To the extent that defendant is arguing that counsel was ineffective for not raising a duress defense at trial, which does not appear to be an argument presented in his brief, we cannot conclude that counsel's performance fell below an objective standard of reasonableness, where counsel chose to present and focus on a "mere presence" defense, which succeeded in part given the acquittals on the more serious charges. *People v Toma*, 462 Mich 281, 302; 613 NW2d 694 (2000).

Defendant next argues that his sentence on the home invasion conviction was not reasonable and was based on acquitted conduct. Defendant's minimum sentence guidelines range was 57 to 142 months; however, the trial court imposed a home invasion sentence with a minimum term of 216 months (18 years), exceeding the top end of the guidelines range by approximately six years and two months. The trial court reasoned as follows:

> Well, [defendant], if you have a small child, then you of all people should have known that possible harm and what possible heartache could come from gunfire being utilized in a small residential place where there was a three-year-old child.
>
> In this particular case you mobilized an angry, volatile young person that you knew to be angry and volatile, and who had a penchant for using guns to come over and rally with you because of someone's missing tennis shoes.
>
> A three-year old child has no future. There is a heartache for that family because it was your idea. You were the one who instigated the phone call and all of the action that led to a three-year old child being murdered on Easter Sunday.
>
> I know that your position has been that you did not do anything, that you were just there watching. Well, the jury didn't believe that, and I don't believe that. Nobody brings spectators to a murder. You were involved. You were there in the car with the shooter driving there, and you were there with the shooter driving away, and you were prepared to be the wheel man to drive away. And, but for your active involvement, that three-year old child would be alive today. You bear enormous responsibility.

The trial court further remarked that the guidelines did not adequately reflect the serious harm that occurred in this case.

In *People v Lockridge*, 498 Mich 358, 392; 870 NW2d 502 (2015), the Supreme Court held that a sentence that departs from the guidelines range is to be reviewed "for reasonableness." And in *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017), the Supreme Court clarified that the reasonableness of a departure sentence is to be reviewed for an abuse of discretion, applying the principle-of-proportionality from *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990), " 'which requires the sentences imposed by the trial court to be proportionate to the seriousness of the circumstances surrounding the offense and the offender.' "

Defendant argues that his sentence was not reasonable or proportionate because he was acquitted of aiding and abetting in the three-year-old's death, because he did not carry a gun to the scene of the crime, and because he did not have any previous "high" felonies. However, despite the jury's determination that the prosecutor failed to prove beyond a reasonable doubt that defendant aided and abetted in the murder or as to AWIM, there was evidence that defendant's actions set in motion the events leading to the shooting death and injuries. As noted by the trial court, defendant's behavior in being a part of the group that produced the death and injuries in retaliation for what defendant thought had been an assault on his brother was not adequately accounted for in the sentencing guidelines. Contacting a violent person, knowing that

he is violent and utilizes firearms, immediately after learning of his brother's situation, along with participating in the retaliation, defendant properly shares the blame for the carnage, at least for purposes of a sentencing departure. The trial court's view that defendant's phone call to the gunman over stolen shoes was the catalyst for the crimes, in contrast to defendant's view that he was merely a spectator, was supported by the evidence. Defendant also has two prior felonies. The trial court did not abuse its discretion in imposing the upward departure, as the minimum sentence of 18 years was proportionate to the seriousness of the circumstances surrounding the offense and the offender.

Finally, with respect to defendant's arguments concerning judicial fact-finding, the Court in *Lockridge,* 498 Mich at 392 n 28, expressly allowed for such fact-finding in relationship to the offense variables for purposes of *advisory* guidelines, and defendant's anticipation that the Supreme Court's ruling in *Steanhouse* might alter *Lockridge* on the matter did not come to fruition. And defendant has not presented a viable or persuasive argument that judicial fact-finding is improper relative to establishing the basis for a sentencing departure.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ William B. Murphy
/s/ Michael J. Riordan

APPENDIX - F

Trial Court Judgement of Sentence

Dated August 30, 2016

Approved, SCAO Original – Court | Original Court; 1st copy- Corrections; 2nd copy- Corrections (for return) | Def- | 3rd copy – Michigan State Police CJIC; ~~4th copy – Defendant~~; 5th copy - Prosecutor

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS ☐ Amended	CASE NO. 16-002935-03-FC

ORI MI – 821095J Court Address 1441 St. Antoine, Detroit, MI 48226 Courtroom 602 Court Telephone No. 313-224-5170
Police Report No.

THE PEOPLE OF THE STATE OF MICHIGAN	v	Defendant name, address, and telephone no. Johnathan Lamar Burks Alias(es) - No Known Address
		CTN/TCN: 16706712-03 / SID: MI-2791930K / DOB: 08/09/1985
Prosecuting attorney name: Athina T. Siringas / Bar no.: 35761		Defendant attorney name: James C. Howarth / Bar no.: 15179

THE COURT FINDS:

1. The defendant was found guilty on 08/03/2016 of the crime(s) stated below:

	CONVICTED BY			DISMISSED BY*	CRIME	CHARGE CODE (S) MCL citation/PACC Code
Count	Pleas*	Court	Jury			
5	-	-	G	--	HOME INVASION I (3rd HAB ENHANCED)	750.110A2
8	-	-	G	--	FELONY FIREARM	750.227B-A

*Insert "G" for guilty plea, "NC" for nolo contendere, or "MI" for guilty but mentally ill, "D" for dismissed by court or "NP" for dismissed by prosecutor/plaintiff.

☐ 2. The conviction is reportable to the Secretary of State under MCL 257.625(21)(b). MI-B620428488623 Defendant's driver license number
☐ 3. HIV testing and sex offender registration are completed.
☐ 4. The defendant has been fingerprinted according to MCL 28.243.
☐ 5. A DNA sample is already on file with the Michigan State Police from a previous case. No assessment is required.

IT IS ORDERED:

☐ 6. Probation is revoked.

7. Participating in a special alternative incarceration unit is ☒ prohibited. ☐ permitted.

8. Defendant is sentenced to custody of Michigan Department of Corrections. This sentence shall be executed immediately.

Count	SENTENCE DATE	MINIMUM			MAXIMUM			DATE SENTENCE BEGINS	JAIL CREDIT		OTHER INFORMATION
		Years	Mos.	Days	Years	Mos.	Days		Mos.	Days	
5	08/30/2016	18	0	0	40	0	0	08/30/2016	0	0	---
8	08/30/2016	2	0	0	2	0	0	08/30/2016	0	143	---

☒ 9. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)
☒ each other. ☐ case numbers _____

10. The Defendant shall pay:

State Minimum	Crime Victim	Restitution	DNA Assess.	Court Costs	Attorney Fees	Fine	Other Costs	Total
$ 68.00 x 2=136	$ 130	$ 0	$60	$ 1,300	$ 400	$ 0	$ 0	$ 2,026.00

The due date for payment is _____. Fine, costs, and fees not paid within 56 days of the due date are subject to a 20% late penalty on the amount owed.

11. The concealed weapon board shall ☐ suspend for ☐ days ☐ permanently revoke the concealed weapon license, permit number _____ issued by _____ County.

☐ 12. The defendant is subject to lifetime monitoring pursuant to MCL 750.520n.

13. **Court recommendation: COUNT 5 IS TO RUN CONSECUTIVE TO COUNT 8. NG COUNTS 1, 2, 3, 4 & 6.**

AUGUST 30, 2016 Date

Judge Hon. Timothy M. Kenny 23009 Bar no.

I certify that this is a correct and complete abstract from the original court records. The sheriff shall, without needless delay, deliver defendant to the Michigan Department of Corrections at a place designated by the department.

(SEAL)

Lynda Gray Deputy court clerk

GL-57-142

MCL 765.15(2), MCL 769.1k, MCL 769.16a, MCL 775.22, MCL 780.766 MCR 6.427