

APPENDICE

A

Court of Appeals May 27, 2021 Opinion

Order

Michigan Supreme Court
Lansing, Michigan

August 22, 2023

Elizabeth T. Clement,
Chief Justice

163342-3

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163342-3
COA: 348347, 348350
Wayne CC: 15-007481-FH
15-008119-FH

BERNARD ANTOINE HARDRICK,
Defendant-Appellant.

By order of September 21, 2022, the application for leave to appeal the May 27, 2021 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Enciso* (Docket No. 162311). On order of the Court, leave to appeal having been denied in *Enciso* on May 12, 2023, 511 Mich ____ (2023), the application is again considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.



10774

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.

August 22, 2023

Order

Michigan Supreme Court
Lansing, Michigan

September 21, 2022

Bridget M. McCormack,
Chief Justice

163342-3

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Elizabeth T. Clement
Megan K. Cavanagh
Elizabeth M. Welch,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163342-3
COA: 348347, 348350
Wayne CC: 15-007481-FH
15-008119-FH

BERNARD ANTOINE HARDRICK,
Defendant-Appellant.

By order of January 31, 2022, the application for leave to appeal the May 27, 2021 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Davis* (Docket No. 161396). On order of the Court, the case having been decided on March 14, 2022, ___ Mich ___ (2022), the application is again considered and, it appearing to this Court that the case of *People v Enciso* (Docket No. 162311) is pending on appeal before this Court and that the decision in that case may resolve an issue raised in the present application for leave to appeal, we ORDER that the application be held in ABEYANCE pending the decision in that case.



10914

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.

September 21, 2022

Clerk

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BERNARD ANTOINE HARDRICK,

Defendant-Appellant.

UNPUBLISHED

May 27, 2021

Nos. 348347; 348350

Wayne Circuit Court

LC Nos. 15-007481-01-FH;

15-008119-01-FH

Before: RONAYNE KRAUSE, P.J., and RIORDAN and O'BRIEN, JJ.

PER CURIAM.

Defendant appeals as of right his convictions after a jury trial of one count of conducting a criminal enterprise, MCL 750.159i(1), and three counts of false pretenses (\$1,000 or more but less than \$20,000), MCL 750.218(4)(a). The trial court sentenced defendant as a fourth-offense habitual offender, MCL 769.12, to 20 to 35 years in prison for each conviction. For the reasons provided below, we affirm defendant's convictions, but we remand to the trial court for the ministerial task of correcting clerical errors in the judgments of sentence.

I. FACTS AND HISTORY

For the most part, the underlying facts of these cases are straightforward and were admitted by defendant at trial. Within a couple of weeks of being paroled from prison on June 16, 2015, defendant found so-called "abandoned" or vacant homes in Wayne County. His plan was to utilize the doctrine of "adverse possession" to claim an "interest" in the properties and then sell the properties.¹ To effectuate this plan, quitclaim deeds were created, either by him or at his direction, that showed the properties being transferred from himself to one of his companies. Defendant recorded these deeds with the Wayne County Register of Deeds. Defendant would then list the properties on the Craigslist website for sale or lease to own. When prospective buyers inquired

¹ Defendant explained that, while imprisoned, he learned about adverse possession while conducting legal research in the law library.

about the properties, defendant met them at the properties, told them he was the owner, and showed them the quitclaim deeds as “proof” that he held title.

Defendant was originally tried in 2016 and convicted of nine counts of forgery of a document affecting real property, MCL 750.248b, nine counts of uttering and publishing a document affecting real property, MCL 750.249b, three counts of using false pretenses to obtain money in an amount of \$1,000 or more but less than \$20,000, MCL 750.218(4)(a), and one count of conducting a criminal enterprise, MCL 750.159i(1). In a prior appeal, this Court reversed the convictions of forgery and uttering and publishing because the quitclaim deeds that were at the heart of those charged crimes were not “falsely made.” *People v Hardrick*, unpublished per curiam opinion of the Court of Appeals, issued December 19, 2017 (Docket Nos. 333568 & 333898), p 5. In other words, the instruments “did not purport to be anything other than quitclaim deeds conveying *whatever interest defendant had in the property* to his company or vice versa.” *Id.* (emphasis added). The fact that defendant held no legal interest in the properties did not affect the authenticity of the deeds.

This Court also held that there was sufficient evidence to support defendant’s convictions of conducting a criminal enterprise and false pretenses, *id.* at 3-5, but still reversed those convictions and remanded to the trial court for a new trial on those four counts because defendant’s right to self-representation was violated, *id.* at 6-7. Accordingly, this Court remanded for a new trial on the charges of conducting a criminal enterprise and three counts of using false pretenses to obtain money in an amount of \$1,000 or more but less than \$20,000. *Id.* at 9.

Although defendant stated that he had recorded deeds for 21 properties, the retrial primarily involved five properties: 18300 Glastonbury in Detroit, 3290 Sherbourne in Detroit, 13591 Lenore in Redford, 10065 West Outer Drive in Detroit, and 12661 Fordline in Southgate.² Evidence was presented that at the time of the transactions at issue, defendant had *no* property interest in the various properties. Indeed, during the summer of 2015, after their respective foreclosures, the following people or banks owned the various properties: M&T Bank owned the Glastonbury property after a March 15, 2012 sheriff’s sale; Bank of America owned the Sherbourne property after a February 26, 2015 sheriff’s sale; Chase Bank owned the Lenore property after a June 14, 2012 sheriff’s sale; MetLife Bank owned the Outer Drive property after a January 17, 2013 sheriff’s sale; and Cynthia Bowman had been the owner of the Fordline property since November 26, 1993. There was no evidence that any of these owners transferred any interest in the properties to defendant or his companies.

Defendant did not deny recording quitclaim deeds for these various properties and informing prospective purchasers that he was the “owner” before “selling” the properties to these

² Specifically, a fifth amended information, which was the most current information leading up to the retrial, alleged in Count 1 that defendant had conducted a criminal enterprise with the predicate offenses being five instances of engaging in false pretenses for the Glastonbury, Sherbourne, Lenore, West Outer Drive, and Fordline properties. In Count 2, defendant was charged with false pretenses related to the Glastonbury property. In Count 3, defendant was charged with false pretenses related to the Sherbourne property. And in Count 4, defendant was charged with false pretenses related to the Lenore property.

individuals. His defense at trial was that no deceit was involved because he thought that he was following the law of adverse possession. While defendant acknowledged that adverse possession takes 15 years to obtain "clear title," he asserted that he thought that before that time elapsed, he still had "the right to exercise powers and privileges of ownership."

The jury did not believe defendant and found him guilty as charged of one count of conducting a criminal enterprise and three counts of obtaining property valued at \$1,000 or more but less than \$20,000 by false pretenses.

II. RIGHT TO BE PRESENT AND TO BE REPRESENTED

Defendant argues that a new trial is required because his right to be present and his right to representation were violated when the trial court removed him from the courtroom during a portion of the prosecutor's closing argument and during the prosecutor's rebuttal argument. We disagree.

During the prosecutor's closing arguments, defendant, representing himself, interrupted no fewer than 10 times. Each time defendant took exception with something the prosecutor said and attempted to place an objection on the record. After the third interruption, the trial court stated:

I can't tell the prosecutor how to conduct her closing argument as I can't tell you how to conduct yours, as long as it is orderly and it reflects what the evidence in the case said.

So please don't interrupt anymore. Closing arguments are not evidence.

Despite the trial court's admonishment to not interrupt anymore during closing arguments, defendant interrupted the prosecutor's very next statement, which characterized defendant as "scamming victim after victim." The court then told defendant to "[h]old your objections until the end of the arguments and then we'll make a record. Keep track of them and we'll make a record." The court further noted that if defendant continued to interrupt, it was going to deduct time from his closing arguments.

Undeterred, defendant interrupted the prosecutor's argument another seven times, for a total of 10 times. After this tenth interruption, the trial court excused the jury and had defendant removed, saying:

Mr. Hardrick, I told you at the beginning of this trial that if you continued, I almost excluded you from being present in your own trial and that you would be back there in the cell listening to it over a microphone.

You have continually tried to make a mockery of the legal system, of the court system. You don't respect yourself, you don't respect the citizens who are present, the Judge's staff, you don't respect anyone. You claim to be as good a lawyer as any lawyer who has a certification with . . . that training but you don't respect it. So you are really showing us a large degree of confusion. But I allowed you to represent yourself because I was convinced that you could do that and you have done that. But you are disobeying this court order. I told you yesterday when you were on the stand not to talk about the appellate process in this case. You still

told the jury that the case has been appealed, that the case had been reversed and the Supreme Court had done this, this and this, and I continually told you not to do it. I said if you continued to do it I was going to discontinue your testimony. I didn't discontinue your testimony. I let you go on and disrespect this Court and disregard this Court, okay.

Today I keep telling you that these are closing arguments, they're not evidence. Don't improperly interrupt the prosecutor when she's talking about what the evidence showed and what the prosecutor's position is on this case. You will have an opportunity to do it when we bring you back from the cell.

So I am going to exclude you from this trial right now. We are going to set up the microphone in the cell so we can finish this closing argument. When it is your turn, we'll bring you out. If you disregard the Court's order at that point, then I am going to discontinue your closing arguments. I am going to charge the jury and then a higher court can decide if I was right or wrong.

Let's take him back to the back.^[3]

Although defendant was removed, standby counsel remained at defense table.

The prosecutor subsequently finished the last portion of her closing argument without interruption, which encompassed approximately three pages in the transcript. After defendant was brought back in and conducted his closing argument, he was led out again for the prosecutor's rebuttal argument, which encompassed about two pages of the transcript.⁴

On appeal, defendant claims that his right to be present and his right to representation were violated. Because defendant never argued in the trial court that his constitutional rights were violated, this issue is not preserved. See *People v Cameron*, 291 Mich App 599, 617; 806 NW2d 371 (2011). Unpreserved constitutional issues are reviewed for plain error affecting substantial rights. *People v Wiley*, 324 Mich App 130, 150; 919 NW2d 802 (2018). Thus, to avoid forfeiture, defendant must show that an error occurred, that the error was plain, i.e., clear or obvious, and that the error affected his substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). This last requirement generally requires a showing of prejudice, which means showing "that the error affected the outcome of the lower court proceedings." *Id.*

"The right to be present at one's trial is a fundamental right guaranteed the defendant by both statute, [MCL 768.3], and as part of Fourteenth Amendment due process, *Illinois v Allen*, 397 US 337; 90 S Ct 1057; 25 L Ed 2d 353 (1970)." *People v Montgomery*, 64 Mich App 101, 103;

³ It appears that the trial court misspoke when it used the term "microphone" and instead meant "speaker." There is no indication that the court intended to allow defendant to speak to the courtroom through a microphone, which would have frustrated the very purpose of defendant's removal.

⁴ The prosecutor's argument and rebuttal encompassed approximately 20 pages total in the transcript.

235 NW2d 75 (1975). However, through his conduct in the courtroom, a defendant can waive his right to be present. *Id.* Specifically, a defendant can waive his right to be present by “being so disorderly or disruptive that his trial cannot be continued while he is present.” *People v Buie (On Remand)*, 298 Mich App 50, 57; 825 NW2d 361 (2012) (quotation marks and citation omitted).

Defendant in this case interrupted the prosecutor’s closing argument 10 times before he was removed from the courtroom. After the third interruption, to keep the proceedings moving, the trial court instructed defendant to save his “objections” for after the prosecutor’s arguments. Despite this mandate, defendant continued to interrupt. After the tenth interruption (seventh after being told not to interrupt anymore), the trial court finally removed defendant from the courtroom. Defendant’s repeated interruptions can best be characterized as disagreements with the prosecutor’s view of the evidence and legal theories. But this is precisely the purpose of closing argument. See *People v Finley*, 161 Mich App 1, 9; 410 NW2d 282 (1987) (“The purpose of closing argument is to allow attorneys to comment on the evidence and to argue their theories of the law to the jury.”), *aff’d* 431 Mich 506 (1988). Consequently, defendant’s “objections” had no merit.⁵

Thus, with defendant repeatedly interrupting the prosecutor’s argument for unfounded reasons, it is clear that defendant was being disruptive and was subject to being removed. However, the United States Supreme Court has said that a disruptive defendant can be removed only “after he has been warned by the judge that he will be removed if he continues his disruptive behavior.” *Allen*, 397 US at 343. There is no indication in the record that the trial court warned defendant that his continued behavior of interrupting the proceeding could result in his removal. Instead, the only warning given was that defendant’s allotment of time for his own closing argument could be reduced. Consequently, it appears that the trial court erred—not by removing defendant, but by removing him without first warning him that removal would be a consequence of his continued disruptive actions.

“[T]he test for whether a defendant’s absence from a part of his trial requires reversal of his conviction is whether there was any reasonable possibility that defendant was prejudiced by his absence.” *People v Armstrong*, 212 Mich App 121, 129; 536 NW2d 789 (1995); see also *People v Morgan*, 400 Mich 527, 535; 255 NW2d 603 (1977) (“[I]t is no longer the law that injury is conclusively presumed from defendant’s every absence during the course of a trial.”); *Buie*, 298 Mich App at 59. Given the relatively short time defendant was absent, the fact that his absence only pertained to the prosecutor’s rebuttal and a small portion the prosecutor’s closing argument, and that defendant was able to continue to hear the prosecutor’s arguments over a speaker in another room, defendant has failed to show a “reasonable possibility” that he was prejudiced. Defendant argues that he was prejudiced because he was unable to make any further objections or request any curative instructions. However, defendant does not identify any specific, valid objections he would have raised had he remained present. After reviewing the remainder of the prosecutor’s closing argument and her rebuttal argument, we likewise see no grounds where an

⁵ On appeal, defendant does not argue that any of the prosecutor’s remarks during closing argument were improper.

objection would have been successful. Thus, any objection would have been futile, and any inability to raise a futile objection cannot constitute prejudice.

Moreover, defendant's contention that he was unable to make any further objections to the prosecutor's argument is not supported by the record. The trial court clearly stated that defendant could—and requested that he do—raise any objections he wanted *at the conclusion of the prosecutor's argument*. It is evident from the record that defendant could still hear everything that was being said while he was removed. Thus, defendant could have raised any objection after arguments, as the trial court requested. Simply put, contrary to defendant's assertion on appeal, he was not prohibited from raising objections to anything that was said while he was absent from the courtroom.

Therefore, although it appears that the trial court plainly erred by not providing a warning to defendant before removing him from the courtroom, reversal is not warranted on this issue because there is no reasonable possibility that he was prejudiced.⁶

Defendant also argues that his removal denied him the right to representation. Defendant's argument has no merit. First, it is undisputed that defendant had waived his right to counsel and instead desired to represent himself. Second, defendant identifies no authority that, merely because he was representing himself, his right to self-representation could not be waived on account of disruptive behavior.

Defendant also claims that the issue was “compounded” because the trial court never expressly designated his standby counsel as the primary counsel after defendant's removal. We agree that, ideally, the trial court should have informed standby counsel that she was no longer “standing by” after defendant's removal. But by definition, being “standby” meant that counsel would take over the representation of defendant if he was unable or unwilling to continue representing himself. See *Black's Law Dictionary* (11th ed), (defining “standby counsel” as “[a] lawyer appointed by the court to be prepared to represent a defendant who waived the right to counsel” and “[a] court-appointed or privately hired lawyer who is prepared to assume representation of a client if the client's primary lawyer withdraws or is fired by the client, or if a pro se defendant's self-representation ends”). Thus, it is not obvious or clear that defendant was without representation after his removal. Although the trial court did not expressly designate counsel as “primary” counsel, there is nothing in the record that shows that counsel did not nonetheless take on that role. The fact that counsel did not raise any objections during the remainder of the prosecutor's closing argument or during the prosecutor's rebuttal argument should not be considered significant where defendant does not identify any specific, valid grounds

⁶ Our conclusion that reversal is not warranted on this issue would remain unchanged even if the issue was deemed preserved, i.e., that defendant, by his conduct, preserved an objection to his removal from the courtroom. This is because the “reasonable possibility” standard applies regardless of whether an objection is lodged. See generally, *People v Woods*, 172 Mich App 476, 479-480; 432 NW2d 736 (1988) (addressing whether the defendant's absence from trial warranted a new trial without discussion of issue preservation).

for an objection, and none are apparent. Therefore, defendant cannot show under the plain-error standard that he was without representation during closing arguments.⁷

Lastly, defendant argues that the trial court erred by failing to provide a curative instruction to the jury regarding his absence. However, when asked if he was satisfied with the instructions as given, defendant only had a concern regarding the unanimity instruction. Accordingly, any instructions or lack thereof regarding defendant's disruptions and subsequent removal are waived, and waiver extinguishes any error. *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000). In any event, defendant's assertion that the trial court provided no instruction on this matter, either immediately after defendant was removed or during final jury instructions, is not supported by the record. One of the very first instructions the trial court provided during the final instructions was that "[a]ny disruptions that we've had during the trial, please do not pay attention to these disruptions and not use it in any way to decide your verdict in this case." Given the lack of other "disruptions" during trial, it is apparent that the trial court was referring to defendant and his earlier removal. Consequently, even if defendant had not waived this issue with respect to jury instructions, and the issue was merely unpreserved, defendant cannot show any plain error.

III. JURY INSTRUCTIONS

Defendant argues that the trial court erred when it failed to provide the jury with an instruction on a claim-of-right defense and an instruction on adverse possession. We disagree.

"The determination whether a jury instruction is applicable to the facts of a case is reviewed for an abuse of discretion; however, questions of law relative to jury instructions are reviewed de novo." *People v Mikulen*, 324 Mich App 14, 20; 919 NW2d 454 (2018). A court abuses its discretion when it selects an outcome falling outside the range of reasonable and principled outcomes. *People v Dixon-Bey*, 321 Mich App 490, 496; 909 NW2d 458 (2017). Further, whether a defendant was denied the constitutional right to present a defense is reviewed de novo. *People v Kurr*, 253 Mich App 317, 327; 654 NW2d 651 (2002).

Defendant's primary defense at trial was that he thought he was exercising his rights under the doctrine of adverse possession when he recorded quitclaim deeds for properties he did not own and then later attempted to sell those properties. Consequently, defendant requested that the trial court provide the jury with instructions regarding a claim-of-right defense and adverse possession. The trial court denied the requests because it determined that there was insufficient evidence to support the instructions.

"A court must properly instruct the jury so that [the jury] may correctly and intelligently decide the case. The instruction to the jury must include all elements of the crime charged, and

⁷ Regardless of what standard we apply to his assertion that he was without representation during closing arguments, we nonetheless conclude that reversal is not warranted because he has not affirmatively shown that he was without counsel during that stage of the proceedings. See *Brooks v United States*, 500 F2d 103, 105 (CA 8, 1974) (explaining that "[o]rdinarily, the burden of proof is on an accused to establish that he was denied the right to counsel" at a critical stage) (citation omitted).

must not exclude from jury consideration material issues, defenses or theories if there is evidence to support them.” *People v Traver*, 502 Mich 23, 31; 917 NW2d 260 (2018) (quotation marks and citations omitted). Further, the United States Constitution guarantees that “[a] criminal defendant must be provided a meaningful opportunity to present evidence in his or her own defense.” *People v Bosca*, 310 Mich App 1, 47; 871 NW2d 307 (2015).

The trial court did not abuse its discretion when it determined that there was insufficient evidence to support instructing the jury on adverse possession and a claim-of-right defense.

“To establish adverse possession, the party claiming it must show ‘clear and cogent proof of possession that is actual, visible, open, notorious, exclusive, continuous and uninterrupted for the statutory period of 15 years, hostile and under cover of claim of right.’ ” *Beach v Lima Twp*, 489 Mich 99, 106; 802 NW2d 1 (2011), quoting *Burns v Foster*, 348 Mich 8, 14; 81 NW2d 386 (1957). In this instance, there was no evidence to show that the requirements of adverse possession had been met. Even assuming that defendant met the “actual, visible, open, notorious, exclusive, [and] continuous” requirements of possession,⁸ he did not meet the 15-year requirement. Indeed, as the prosecutor noted in her closing argument, defendant barely had 15 days of “possession,” let alone 15 years. Notably, defendant admitted that he did not meet the 15-year requirement as well. Therefore, the trial court did not err by refusing to provide an instruction on adverse possession when it was undisputed that the elements were not satisfied.

Although defendant acknowledged that he did not meet the 15-year statutory period, he claimed that under *his view* of the law, an adverse possessor would have “the right to exercise the powers and privileges of ownership,” even before that 15-year period lapsed. Contrary to defendant’s assertion, that is not the law of adverse possession. See *Beach*, 489 Mich at 107 (stating that only after the statutory period ends does the adverse possessor acquire “legal title”). Consequently, there is no instruction that could have aided defendant with his theory. At best, defendant could have claimed, which he did, that this was *his* understanding of the law after conducting his own research. But because this defense primarily deals with defendant’s personal, subjective beliefs, no jury instruction was needed regarding the actual legal concept of adverse possession. In fact, because the law does *not* support defendant’s view, providing the law to the jury may have inured to the benefit of the prosecution. In other words, not having the trial court provide the law of adverse possession to the jurors allowed them to work from a somewhat nebulous concept,⁹ which arguably gave them a better chance at believing defendant. Accordingly, because an instruction on adverse possession did not support defendant’s theory, he cannot show how he was denied the right to present a defense. Importantly, defendant was able to present his defense that he had no intent to deceive because he *thought* he was acting within his understanding

⁸ We note that merely recording a quitclaim deed and showing the property to prospective buyers hardly constitutes the type of open, visible, and notorious possession needed. See *Burns*, 348 Mich at 15 (“To make good a claim of title by adverse possession, . . . *the possession must be so open, visible, and notorious as to raise the presumption of notice to the world that the right of the true owner is invaded intentionally.*”) (emphasis in original).

⁹ Although the trial court did not provide an instruction on adverse possession, a rough definition was mentioned by a witness. Regardless, it was stressed that the court was to be the source of law.

of the law of adverse possession. No instruction on the actual law of adverse possession would have helped him with this defense.

At trial, defendant also requested the following claim-of-right instruction:

Claim of title or claim of right is essential to adverse possession, but it is not necessary that an adverse claimant should believe in his title, or that he should have any title. He may have no shadow of title and be fully aware of that fact, but he must claim title. He may go into possession without any claim of title, but his possession does not become adverse until he asserts one; and he may assert it by openly exercising acts of ownership, with the intention of holding the property as his own to the exclusion of all others. [Some capitalization altered.]

Preliminarily, the instruction that defendant argues on appeal should have been provided is not the same as the one he actually requested. On appeal, defendant cites M Crim JI 7.5 as the instruction that should have been given, but that instruction deals with a defense to larceny.¹⁰ Therefore, to the extent that defendant contends that the trial court should have provided M Crim JI 7.5, that issue is not preserved. See *People v Sabin (On Second Remand)*, 242 Mich App 656, 657; 620 NW2d 19 (2000). And because M Crim JI 7.5 addresses larceny-type crimes, the trial court did not plainly err by failing to provide that instruction in this instance. That is because this case dealt with *real* property that cannot be the subject of a larceny. See *People v March*, 499 Mich 389, 401; 886 NW2d 396 (2016).

¹⁰ M Crim JI 7.5 provides as follows:

(1) To be guilty of [larceny / robbery / (state other crime)], a person must intend to steal. In this case, there has been some evidence that the defendant took the property because [he / she] claimed the right to do so. If so, the defendant did not intend to steal.

(2) When does such a claimed right exist? It exists if the defendant took the property honestly believing that it was legally [his / hers] or that [he / she] had a legal right to have it. Two things are important: the defendant's belief must be honest, and [he / she] must claim a legal right to the property.

(3) You should notice that the test is whether the defendant honestly believed [he / she] had such a right. It does not matter if the defendant was mistaken or should have known otherwise. [It also does not matter if the defendant (used force / trespassed) to get the property or if [he / she] knew that someone else claimed the property.]

(4) The defendant does not have to prove [he / she] claimed the right to take the property. Instead, the prosecutor must prove beyond a reasonable doubt that the defendant took the property without a good-faith claimed right to do so.

Moreover, the trial court did not err by declining to provide the requested instruction regarding a claim of right. Defendant obtained this “instruction” from *Smith v Feneley*, 240 Mich 439, 441-442; 215 NW 353 (1927), and it pertains to adverse possession. Specifically, the Court was addressing the “claim of right” element of adverse possession, explaining that “[t]he belief or knowledge of the adverse claimant is not as important as his intentions. The intention is the controlling consideration and it is not the knowledge or belief that another has superior title, but the recognition of that title that destroys the adverse character of possession.” *Id.* at 441. As already discussed, any instruction on adverse possession was not warranted, so this further layer of law with regard to adverse possession also was not warranted. Notably, nothing prevented defendant from explaining to the jury that this is the law or text he found, which formed the basis for his belief that he had actual title or right to the properties. In other words, the relevance of this passage goes only to defendant’s state of mind after reading it. Accordingly, it would not have been proper for the court to instruct the jury on it. Instead, the law, i.e., the text that defendant found and supposedly relied on, was more *evidentiary* in nature as a way to explain his thought process.¹¹

Likewise, because the failure to provide this instruction did not affect defendant’s ability to present his defense, his constitutional right to present a defense was not violated.

IV. CLERICAL ERRORS IN JUDGMENTS

Defendant requests that this Court remand to the trial court for correction of clerical errors in the judgments of sentence. Because there are other errors in the judgments as well, we agree that remand for the ministerial task of modifying the judgments is warranted.

In the instant case, defendant initially was sentenced under two judgments of sentence that were entered on March 6, 2019, one for LC 15-007481-01-FH and another for LC 15-008119-01-FH. Both judgments were later amended on August 31, 2020. All four judgments state, “The defendant was found guilty on 03/23/2016.” These dates of conviction are incorrect. Those dates represent the dates defendant was convicted at his *first* trial; but after this Court’s remand and a new trial was held, defendant was convicted on February 2, 2019.

Additional, more substantial clerical errors are also apparent in the judgments of sentence. In LC 15-007481-01-FH, defendant was convicted of one count of conducting a criminal enterprise and one count of false pretenses. The amended judgment of sentence specifies that defendant was convicted of these counts, but in the sentence portion, it only lists the sentence for the conducting-a-criminal-enterprise conviction. Defendant’s sentence for the false-pretenses conviction is not listed and should be reflected on this judgment.

¹¹ Moreover, defendant’s interpretation at trial of this excerpt from *Smith* is incorrect. This provision does not mean that an adverse possessor *actually has* all rights and privileges of ownership before the expiration of the 15-year period. Instead, an adverse possessor must act *as if* he has such rights, but the possessor has no actual title or rights before the expiration of that 15-year period.

Furthermore, the amended judgment of sentence for LC 15-008119-01-FH states that defendant was found guilty of two counts of false pretenses, which are listed as Counts 2 and 4. But under the sentencing portion, the counts are listed as Counts 3 and 4. They properly should be listed as Counts 3 and 4 because Counts 1 and 2 were captured on the other judgment.¹²

Therefore, we remand for the ministerial task of correcting the amended judgments of sentence as follows:

LC No. 15-007481-01-FH

- under “THE COURT FINDS” section, the date of conviction should be listed as 02/07/2019
- under the sentencing section, the sentencing for Count 2 that had been omitted should be added

LC No. 15-008119-01-FH

- under “THE COURT FINDS” section, the date of conviction should be listed as 02/07/2019
- under “THE COURT FINDS” section, the counts should be listed as Counts 3 and 4 to match how they are represented in the sentencing section

V. DEFENDANT’S STANDARD 4 BRIEF

Defendant raises several additional issues in his Standard 4 brief on appeal,¹³ but as discussed below, none have merit.

A. DUE PROCESS

Defendant argues that his right to due process was violated because the information failed to inform him which charged counts were associated with which lower court file, and because the information alleged that Redford Township was the only victim. We disagree. This Court reviews constitutional issues de novo. *People v Benton*, 294 Mich App 191, 203; 817 NW2d 599 (2011).

After this Court’s remand and before defendant’s retrial commenced, a fifth amended information was issued, which listed only a single case number, “8215007481.” And under “Complainant or Victim,” the information only listed “TOWNSHIP OF REDFORD.”

“The Due Process Clause of the Fourteenth Amendment mandates that a state’s method for charging a crime give a defendant fair notice of the charge against the defendant, to permit the defendant to adequately prepare a defense.” *People v Chapo*, 283 Mich App 360, 364; 770 NW2d

¹² Indeed, the initial March 6, 2019 judgment labeled them as Counts 3 and 4.

¹³ A pro se brief filed pursuant to Supreme Court Administrative Order No. 2004-6, Standard 4.

68 (2009). “The purpose of an information in a criminal case is to inform the defendant of the charge made against him.” *People v Carriger*, 37 Mich App 605, 609; 195 NW2d 25 (1972) (quotation marks and citation omitted). An information is to contain the following: (1) the “nature of the offense stated in language which will fairly apprise the accused and the court of the offense charged”; (2) “[t]he time of the offense as near as may be”; and (3) “[t]hat the offense was committed in the county or within the jurisdiction of the court.” MCL 767.45(1)(a)-(c). Further, under MCL 767.76 and MCR 6.112(H), a court may amend an information at any time, which can be before, during, or after trial. See *People v McGee*, 258 Mich App 683, 687; 672 NW2d 191 (2003). But any “amendment must not cause unacceptable prejudice to the defendant through ‘unfair surprise, inadequate notice, or insufficient opportunity to defend.’ ” *Id.* at 688, quoting *People v Hunt*, 442 Mich 359, 364; 501 NW2d 151 (1993); see also *Chapo*, 283 Mich App at 364 (“Prejudice is essential to any claim of inadequate notice.”).

We find no error requiring reversal on account of the information failing to state which count was associated with which lower court file. For one thing, the information *does* specify—it clearly provides that all four counts are associated with case “8215007481,” which presumably relates to LC 15-007481-01-FH. Accordingly, the premise for defendant’s argument that he was never informed which counts were associated with which lower court files is not supported by the record. Plainly, defendant was notified that all the counts were associated with LC 15-007481-01-FH. The accuracy of this is another matter, but defendant cites no authority for the proposition that a (presumed) error in the listing of a lower-case number on an information is a ground for reversal. Indeed, it is not clear how any such error could be deemed prejudicial.¹⁴ Regardless of what the court number was supposed to be, the information provided defendant with the required notice on the four separate counts. Therefore, his argument related to a purported lack of a lower court file number (or an incorrect lower court file number) does not warrant reversal.

The other aspect of defendant’s argument is that the information fails to identify anyone other than Redford Township as a victim. Notably, under MCL 767.45(1), naming a victim is not required. All that is required is to adequately describe the nature of the charged offense. And in the information, it mentioned the specific addresses from the real estate transactions that were associated with each incident of false pretenses. Accordingly, despite the fifth amended information not listing the names of the individuals who had been defrauded on these transactions, the information supplied sufficient information, by virtue of the inclusion of the addresses for the various property transactions, for defendant to know which conduct was at issue. Moreover, contrary to defendant’s assertion, the prosecutor did amend the information to add these individual victim names. The fact that this sixth amended information was created after trial is of no moment because that is expressly permitted under the law, as long as there is no prejudice. *McGee*, 258 Mich App at 687-688. And defendant cannot show any prejudice because in his first trial, there was evidence presented that all of these named victims had been involved with defendant in the various property transactions. Thus, the addition of the names in the sixth amended information does not and cannot constitute unfair surprise.

¹⁴ It was undisputed that while there were two different case files originally, the cases were consolidated for trial.

In sum, defendant's complaints about the information are unwarranted. He has failed to show how he was prejudiced by any perceived errors. There is no question that he had notice of the charges he was facing at trial. Aside from the fifth (and sixth) amended information clearly specifying the charges he was facing, this Court's prior decision specified which four counts were subject to retrial. *Hardrick*, unpub op at 1, 9.¹⁵ It was immaterial which lower court files these counts were tied to.

B. ADDITION OF COUNTS

Defendant argues that reversal is required because he was tried on charges that the prosecution had added after this Court's remand that were not the subject of a preliminary examination. We disagree with defendant's positions.

At the outset, defendant's position is multifaceted and somewhat hard to follow. He acknowledges that this Court remanded for a new trial on one count of conducting a criminal enterprise and three counts of false pretenses. Although a new trial was held on these four charges, he maintains that this was improper. Most of his argument stems from the fact that in the third amended information, which was the latest information for defendant's original trial, under the conducting-a-criminal-enterprise charge, it alleged that defendant knowingly conducted or participated "in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more" incidents. The information then listed 13 incidents of racketeering. Of those 13 incidents, 10 were for the forgery of a document affecting real property and three were for false pretenses. Notably, the three incidents involving false pretenses were for transactions involving properties located at 18300 Glastonbury, 12661 Fordline, and 10065 West Outer Drive.¹⁶

On remand, new information documents were filed. Because this Court determined that defendant could not be convicted of forgery of documents affecting real property, *Hardrick* unpub op at 5, the fifth amended information removed references to those crimes and spelled out that the racketeering activities consisted of false pretenses for the properties located at 13591 Lenore, 18300 Glastonbury, 3290 Sherbourne, 12661 Fordline, and 10065 West Outer Drive. Thus, instead of three incidents of false pretenses supporting the charge of conducting a criminal enterprise, there were now five.

Consequently, defendant's characterization that the prosecutor "added" charges is unfounded. This Court ordered that defendant was subject to retrial on one count of conducting a

¹⁵ This Court stated that defendant was subject to retrial on "the charges of conducting a criminal enterprise and using false pretenses to obtain money in an amount of \$1,000 or more, but less than \$20,000." *Hardrick*, unpub op at 9. But earlier in its opinion, this Court specified that the conducting-a-criminal-enterprise count was from LC No. 15-007481-01-FH. *Id.* at 1. The opinion further reflected that one count of false pretenses came from LC No. 15-007481-01-FH and two counts of false pretenses came from LC No. 15-008119-01-FH. *Id.*

¹⁶ Separately, the third amended information listed three individual counts of false pretenses (Counts 26, 30, and 31) for the Lenore, Glastonbury, and Sherbourne properties.

criminal enterprise and three counts of false pretenses, and that is what happened. The prosecutor did not “add” any charges at the retrial. At the prior trial, defendant was charged with, *inter alia*, one count of conducting a criminal enterprise and three counts of false pretenses, with the three false-pretenses counts relating to 13591 Lenore, 18300 Glastonbury, and 3290 Sherbourne. Those same charges were at issue in the second trial.

The only difference was that after this Court’s remand for a new trial, the prosecutor listed *five* incidents of false pretenses to support the conducting-a-criminal-enterprise allegation instead of the *three* that were alleged in the third amended information. The addition of these other incidents of racketeering did not result in a “new” charge or offense being added. In both the third amended information (subject of first trial) and the fifth amended information (subject of second trial), there was a count of conducting a criminal enterprise.

Also, to the extent that defendant focuses on the addition of these two incidents of false pretenses to support the charge of conducting a criminal enterprise in the fifth amended information, he cannot show any prejudice. Notably, the two “extra” instances of false pretenses in support of that charge were alleged, as independent crimes, in the third amended information. Simply put, although the prosecutor alleged that there were more instances of racketeering to support the crime of conducting a criminal enterprise, these additional instances *already had been alleged as separate crimes in the original trial*. Therefore, defendant was not prejudiced. The third amended information put him on notice that he had to defend against the allegations that he had engaged in false pretenses related to the Glastonbury, Fordline, Outer Drive, Lenore, and Sherbourne transactions. Thus, there can be no prejudice when the fifth amended information also alleged that defendant had engaged in false pretenses related to those very same properties.

In sum, defendant has failed to show how there was any “unfair[] surprise or prejudice” with how he was charged in the fifth (or sixth) amended information. MCR 6.112(H).

Defendant’s contention that he was denied a preliminary examination with respect to the “new” racketeering charge also is unfounded. As already explained, there was no “new” racketeering charge. Thus, because the racketeering charge was the subject of the September 8, 2015 preliminary examination, which was held before the first trial, defendant cannot show any error or prejudice. See *People v Sims*, 257 Mich 478, 482; 241 NW 247 (1932) (“There being no new or different charge introduced by amendment, there is no occasion for a new examination or a rearraignment.”).

C. SUFFICIENCY OF THE EVIDENCE

Defendant argues that there was insufficient evidence to support his conviction of conducting a criminal enterprise. We disagree.

A challenge to the sufficiency of the evidence is reviewed de novo by viewing the evidence in a light most favorable to the prosecution to “determine if any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt.” *People v Cline*, 276 Mich App 634, 642; 741 NW2d 563 (2007) (quotation marks and citation omitted). “All conflicts with regard to the evidence must be resolved in favor of the prosecution. Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the

elements of the crime.” *People v Wilkens*, 267 Mich App 728, 738; 705 NW2d 728 (2005) (citation omitted).

MCL 750.159i(1) provides that “[a] person employed by, or associated with, an enterprise shall not knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity.” Racketeering is defined, in relevant part, as “committing, attempting to commit, [or] conspiring to commit . . . an offense for financial gain” involving false pretenses. MCL 750.159g(w). And a “pattern of racketeering” is defined, in relevant part, as “not less than 2 incidents of racketeering,” MCL 750.159f(c), where “racketeering” includes incidents of obtaining money or property through false pretenses, MCL 750.159g(w).

Notably, defendant does not actually aver that there was insufficient evidence introduced at trial to support his conviction. Instead, he first argues that his conviction should be overturned because of what was stated in the original information that was filed in this case. Specifically, he avers that because the initial information only listed a single instance of false pretenses as a predicate offense for the conducting-a-criminal-enterprise charge, the offense cannot be established because it requires two or more instances.¹⁷ But he does not explain (1) how an information is relevant to whether there was sufficient evidence presented at trial to support a conviction and (2) assuming information documents were relevant, why the *initial* information would be of significance in any event, when the *fifth* amended information was the most recent one before his retrial. And assuming the information from the first trial was relevant, the third amended information, which was the effective one at the time of defendant’s first trial, listed among the predicate offenses under the conducting-a-criminal-enterprise count instances of false pretenses related to 18300 Glastonbury, 12661 Fordline, and 10065 West Outer Drive. Thus, with the fifth amended information listing five instances of false pretenses, the pertinent information documents at both trials each listed “2 or more” instances of false pretenses. MCL 750.159f(c). Accordingly, defendant’s position that there was only a single predicate instance of false pretenses is without merit.

For his second argument, defendant asserts that there was insufficient evidence that Redford Township was a victim of the charged crimes. Again, defendant focuses on the information, where the fifth amended information only listed Redford Township as the “complainant or victim.” He does not dispute that there was evidence presented showing that several individuals had given him money on account of his representations that he owned the properties in question. Moreover, assuming that this type of “victim” designation on an information is controlling,¹⁸ defendant ignores that a sixth amended information listed the names of individual victims. Thus, the premise for this argument is wanting.

¹⁷ Along with this one instance of false pretenses, the information also listed 10 instances of forgery of a document affecting real property as the predicate offenses for the conducting-a-criminal-enterprise count.

¹⁸ Defendant cites no authority showing that such a designation is controlling in any manner.

Defendant next argues that there was insufficient evidence to support his conviction because he actually held a legal claim to the properties. However defendant wishes to characterize his “claim,” there was no evidence that he possessed legal title to the properties. On the contrary, there was evidence that at the time defendant “sold” the properties in question, other people or banks owned the properties—not him. Defendant’s reliance on his various deeds is grossly misplaced. There is nothing magical about recording a document with the register of deeds.¹⁹ His recording of quitclaim deeds that purported to give his companies legal title merely transferred whatever interest he had in the properties (which was none) to those entities. There is no question that defendant held no valid property interests in these properties²⁰; thus, the quitclaim deeds transferred nothing. This is why defendant’s forgery convictions were overturned, but the false-pretenses convictions were not—“the deeds only purported to convey whatever interest defendant or his company possessed, even if neither possessed any legal interest.” *Hardrick*, unpub op at 5. Defendant’s reliance on the doctrine of adverse possession fails for many reasons, but the primary one is that the 15-year statutory period had not elapsed.²¹ Indeed, defendant freely admitted this at trial. Thus, as explained in Part III, contrary to defendant’s assertions, until that 15-year period lapses, defendant holds no title.

Despite not qualifying to take title under the doctrine of adverse possession, defendant nonetheless would have to be acquitted if he held an honest belief that he was the owner of the properties because false pretenses requires, among other things, that “at the time the pretense was used[,] the defendant must have known it to be false.” *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). This was a determination for the jury, and the jury found defendant not credible in this regard. As this Court stated previously, “[a]lthough defendant claimed he believed he was the owner [on account of his understanding of the law], the jury could have reasonably found that defendant knew the representations to be false.” *Hardrick*, unpub op at 5. Thus, there was sufficient evidence to support defendant’s convictions, which all involved false pretenses.

In his fourth argument, defendant contends that the trial court entered a conviction for conducting a criminal enterprise “based on one count of false pretenses.” This is not true. First, the judgment of sentence does not indicate what the underlying conduct was in relation to this

¹⁹ Indeed, it was presented at trial that the register of deeds has no power or authority to look into the validity of any document before being recorded. As an example, an employee from the Wayne County Mortgage and Deed Fraud Unit explained that as long as the document is filled out, it will be accepted for recording, even if it reflects a conveyance from “Bugs Bunny” to “Elmer Fudd.”

²⁰ Although defendant at trial and on appeal cites this Court’s prior opinion for its pronouncement that the forgery charges were not proper, defendant fails to also acknowledge that the lack of “forgery” does not make his deeds “legitimate” *in the sense that they conveyed actual title*. See *Hardrick*, unpub op at 4 (“The evidence presented at trial, however, showed that defendant was not the owner of the properties.”).

²¹ There should be little question that whatever “possession” defendant had was minimal and fleeting and certainly not open, visible, or notorious, which are required to sustain a claim of adverse possession. See Note 6 of this opinion.

conviction. Defendant apparently is conflating the fact that in that judgment of sentence, he also was convicted of one count of false pretenses. But that false-pretenses conviction is wholly independent from the conviction for conducting a criminal enterprise. As had been discussed ad nauseum at the trial court, defendant was to be tried on four separate and distinct counts: one count of conducting a criminal enterprise and three counts of false pretenses.²² While the conducting-a-criminal-enterprise count involved other underlying conduct, that underlying conduct did not have to be charged as individual counts. Therefore, defendant's assertion that he was convicted on the basis on a *single* underlying act is not supported by the record. Indeed, the trial court instructed the jury that there were *multiple* alleged incidents of racketeering as the basis for this particular charge. As such, there is no basis for defendant's contention that his conviction was premised on a single underlying act. As previously described, there was evidence presented that defendant engaged in false pretenses multiple times. Because defendant admitted to creating and recording the deeds and selling the various properties, the only question the jury had to resolve was whether defendant's assertions to the purchasers that he was the "owner" was done with the knowledge that he was not the true owner. See *Lueth*, 253 Mich App at 680. And in this instance, the jury did not accept his version and instead concluded that defendant knew that he did not hold title.

Because none of defendant's arguments has any merit, he cannot prevail on the issue of there being insufficient evidence to support his conviction for conducting a criminal enterprise.

D. RIGHT OF CONFRONTATION

Defendant argues that he was denied the right to confront his accuser, Redford Township. We disagree.

"The Confrontation Clause of the United States Constitution provides that '[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him'" *People v Fackelman*, 489 Mich 515, 524-525; 802 NW2d 552 (2011), quoting US Const, Am VI. "The Confrontation Clause is primarily a functional right in which the right to confront and cross-examine witnesses is aimed at truth-seeking and promoting reliability in criminal trials." *People v Nunley*, 491 Mich 686, 697; 821 NW2d 642 (2012) (quotation marks and citation omitted). The right is violated when out-of-court testimonial statements are admitted in evidence, unless the declarant appeared at trial or the defendant had a previous opportunity to cross-examine the declarant. *Id.* at 698.

Defendant does not cite any evidence that was admitted contrary to this constitutional mandate. Put another way, defendant has not identified any testimonial statements that were admitted into evidence at trial where the declarant was not subject to cross-examination. Accordingly, he has failed to show how his right of confrontation was violated.

²² The trial court stressed to the jury that the four charged crimes are indeed separate charges and each one would be reflected on its own verdict form.

Instead, as with most of his issues, defendant focuses on the information. In the fifth amended information, it listed the “Complainant or Victim” as Redford Township.²³ Because of this designation, defendant maintains that he had the right to cross-examine Redford Township, seemingly irrespective of the evidence introduced. Defendant’s view seems to take a simplistic view of the Confrontation Clause, such that any “victim” must be subject to cross-examination.²⁴ As already described, this is not what the Confrontation Clause requires. As long as there were no testimonial statements attributable to “Redford Township” that were admitted into evidence, the Confrontation Clause is not implicated. See *id.* And here, no such statements were introduced into evidence.

E. DOUBLE JEOPARDY

Defendant argues that his convictions for conducting a criminal enterprise and false pretenses violate double jeopardy because the allegations of false pretenses were contained within the conducting-a-criminal-enterprise crime. We disagree.

An issue is preserved if it is raised in and decided by the trial court. *Cameron*, 291 Mich App at 617. Defendant never asserted that he was being tried or punished for the same crimes (false pretenses) twice in violation of double jeopardy. Accordingly, that portion of defendant’s argument is not preserved. Defendant, however, did raise the issue of relitigating the legality of his deeds. Therefore, that argument is preserved. But to the extent that this issue also involves prosecutorial misconduct during rebuttal, defendant raised no objections; therefore, that aspect is not preserved.²⁵

“The Double Jeopardy Clause, US Const, Am V, protects against ‘(1) multiple *prosecutions* for the same offense after acquittal or conviction; and (2) multiple *punishments* for the same offense.’ ” *People v Duenaz*, 306 Mich App 85, 105; 854 NW2d 531 (2014) (citation omitted; emphasis in original); see also Const 1963, art 1, § 15. However, “when the Legislature has clearly expressed the intent for multiple punishments, the prohibition against double jeopardy is not violated.” *Duenaz*, 306 Mich App at 106. In other words, “the Double Jeopardy Clause acts as a restraint on the prosecutor and the Courts, not the Legislature.” *People v Mitchell*, 456 Mich 693, 695; 575 NW2d 283 (1998). Thus, when the issue is one of multiple punishments, the proper analysis is to determine whether there is a clear indication of legislative intent to impose multiple punishments for the same offense, and if so, then there is no double-jeopardy violation. *Id.* at 695-696.

²³ As previously discussed, a sixth amended information added the names of the individual victims as well.

²⁴ This position is untenable because under defendant’s theory, no murder could successfully be prosecuted because the victim would not be able to testify at trial.

²⁵ As noted earlier, although defendant was removed from the courtroom during the prosecutor’s rebuttal argument, he was permitted to listen to the arguments over a speaker and the trial court had previously instructed him to raise any objections to any comments at the conclusion of the arguments. He did not do so.

In this instance, defendant was convicted of one count of conducting a criminal enterprise and three counts of false pretenses. As previously noted, in the fifth amended information, the predicate offenses for the conducting-a-criminal-enterprise charge were five instances of false pretenses. The fact that defendant was punished for conducting a criminal enterprise, when the predicate offenses were obtaining money or property through false pretenses, does not preclude defendant from also being punished separately for any predicate instance of false pretenses. That is because MCL 750.159j(13) states, "Criminal penalties under this section are not mutually exclusive and do not preclude the application of any other criminal or civil remedy under this section or any other provisions of law." Therefore, because the Legislature has expressly allowed for multiple punishments related to conducting a criminal enterprise, double jeopardy is not violated.

Although not truly a double-jeopardy issue, defendant also argues that because of this Court's prior decision, the issue whether his deeds were "legitimate" could not be relitigated at his new trial. Because he is arguing that the issue of the legitimacy of the deeds could not be relitigated, and because he was not retried on any forgery-related charges, this issue seems to fall under the doctrine of collateral estoppel. "Collateral estoppel precludes relitigation of an issue in a subsequent, different cause of action between the same parties where the prior proceeding culminated in a valid, final judgment and the issue was (1) actually litigated, and (2) necessarily determined." *People v Gates*, 434 Mich 146, 154; 452 NW2d 627 (1990). The issue regarding the "legality" of the deeds was actually determined in the prior appeal. Specifically, this Court held that because quitclaim deeds merely convey a grantor's complete interest or claim in real property to another, without any warranty that title is valid, the deeds themselves could not be "falsely made," which negated any claim of forgery and uttering and publishing a document. *Hardrick*, unpub op at 5-6.

But on retrial, none of defendant's charges required a showing that the deeds were "falsely made." Therefore, it is not clear how double jeopardy or collateral estoppel were implicated. Defendant seems to take issue with how the prosecutor argued that the deeds were not "legitimate." Hence, the issue defendant presents appears to be one of prosecutorial misconduct related to the prosecutor's arguments. The test is whether a defendant was denied a fair and impartial trial due to the actions of the prosecutor. *People v Rodriguez*, 251 Mich App 10, 30; 650 NW2d 96 (2002). A prosecutor's comments are to "be read as a whole and evaluated in light of defense arguments and the relationship they bear to the evidence admitted at trial." *Id.*

Defendant cites the following statements from the prosecutor's rebuttal argument:

One of the things that the Defendant claims is that he keeps saying his deeds are legitimate and the Court of Appeals has overturned it. And you heard the Judge instruct him over and over and over that you've heard no evidence of that. Yet he continues to try and ply that. There has been no evidence that his quitclaim deeds are legitimate in any form or fashion other than the fact that he continues to say that, just like he continues to say I'm the owner, I'm the owner.

But this comment was in response to defendant's argument:

I have a legitimate quitclaim deed to the property no matter how I obtained it. It has already been ruled by the Court of Appeals that what I did was legit. This is just a different scenario of how I obtained the properties, how I'm being charged for obtaining the properties and selling them. So, just, you know, take that into consideration or not.

When viewed in context, although the prosecutor said that there was no evidence to show that the deeds were "legitimate," it is apparent that the prosecutor was not contending that the deeds were forged, but rather that they were ineffective to provide defendant with a valid legal interest in the properties. Arguably, the prosecutor could have used more precise words, but her use of "legitimate" mirrored defendant's use of "legitimate" and "legit." Importantly, defendant was not merely arguing that the deeds were not forged instruments—he was instead contending that the deeds established that he had some type of valid property interest. It was *this* aspect that the prosecutor was refuting. Because defendant's position was wrong as a matter of law,²⁶ and the prosecutor was trying to refute it, defendant cannot show how this comment denied him a fair trial. Significantly, the trial court instructed the jury on how quitclaim deeds do not guarantee anything about title and instead merely transfer "whatever interest the grantor may have in the property to another."

As a result, because none of defendant's arguments for this issue has any merit, he is not entitled to any relief.

VI. CONCLUSION

We affirm defendant's convictions, but we remand to the trial court for the ministerial task of amending the judgments of sentence to correct clerical errors. The judgment in LC No. 15-00748-01-FH is to reflect February 7, 2019, as the date of conviction and is to show the sentence for Count 2, which was omitted. The judgment in LC No. 15-008119-01-FH is to reflect the February 7, 2019 conviction date, and is to show the two counts of false pretenses as Counts 3 and 4. We do not retain jurisdiction.

/s/ Amy Ronayne Krause
/s/ Michael J. Riordan
/s/ Colleen A. O'Brien

²⁶ The existence of a quitclaim deed does not necessarily equate to the existence of a property interest. As this Court stated in its prior opinion, "A quitclaim deed is defined as '[a] deed that conveys a grantor's complete interest or claim in certain real property but that neither warrants nor professes that the title is valid.' Thus, the deeds only purported to convey *whatever interest defendant or his company possessed, even if neither possessed any legal interest.*" *Hardrick*, unpub op at 5 (emphasis added; citation omitted).

Order

Michigan Supreme Court
Lansing, Michigan

October 31, 2023

Elizabeth T. Clement,
Chief Justice

163342-3 (96)(97)

Brian K. Zahra
David F. Viviano
Richard H. Bernstein
Megan K. Cavanagh
Elizabeth M. Welch
Kyra H. Bolden,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 163342-3
COA: 348347, 348350
Wayne CC: 15-007481-FH
15-008119-FH

BERNARD ANTOINE HARDRICK,
Defendant-Appellant.

On order of the Court, the motion for reconsideration of this Court's August 22, 2023 order is considered, and it is DENIED, because we are not persuaded that reconsideration of our previous order is warranted. MCR 7.311(G). The motion for court documents is DENIED.



s1023

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 31, 2023

Clerk

Primary Trust Transactions

Date	Transaction Type	Payer / Paid To	Voucher Number	Deposit	Expense	Balance	Loc Code
08/28/2023 03:08:08 PM	Legal Stamps	AMF Institutional Services			(\$0.63)	\$15.35	AMF
08/31/2023 04:00:02 AM	LEGAL POSTAGE - PBF	AMF PBF Postage			(\$0.57)	\$14.78	COF
09/03/2023 05:10:10 AM	GTL	Phillip Abron		\$11.00		\$25.78	COF
09/05/2023 01:44:23 PM	Legal Stamps	AMF Institutional Services			(\$0.63)	\$25.15	AMF
09/08/2023 08:33:04 AM	Legal Supplies Disbursement	AMF PBF Legal Supplies			(\$2.22)	\$22.93	AMF
09/13/2023 01:31:50 AM	Commissary Sale	Keefe Commissary	C105229175		(\$3.66)	\$19.27	AMF
09/13/2023 12:44:43 PM	Notary Disbursement	AMF Institutional Services			(\$1.00)	\$18.27	AMF
09/15/2023 09:33:50 AM	Stamps	AMF Institutional Services			(\$0.63)	\$17.64	AMF
09/15/2023 09:41:15 AM	Legal Stamps	AMF Institutional Services			(\$1.35)	\$16.29	AMF
09/15/2023 09:42:27 AM	Legal Stamps	AMF Institutional Services			(\$0.63)	\$15.66	AMF
09/30/2023 04:00:02 AM	LEGAL COPIES	AMF INSTITUTIONAL SERVICES			(\$0.88)	\$14.78	COF
10/03/2023 05:10:10 AM	GTL	Phillip Abron		\$11.00		\$25.78	COF
10/04/2023 03:49:14 PM	Stamps	AMF Institutional Services			(\$0.63)	\$25.15	AMF
10/12/2023 01:48:03 PM	Legal Stamps	AMF Institutional Services			(\$0.63)	\$24.52	AMF
10/12/2023 01:49:01 PM	Legal Stamps	AMF Institutional Services			(\$4.23)	\$20.29	AMF
10/16/2023 11:07:22 PM	Commissary Sale	Keefe Commissary	C90417		(\$5.28)	\$15.01	AMF
10/18/2023 01:56:37 PM	Stamps	AMF Institutional Services			\$0.00	\$15.01	AMF
10/31/2023 04:00:02 AM	LEGAL POSTAGE - PBF	AMF PBF Postage			(\$0.23)	\$14.78	COF
11/10/2023 05:10:11 AM	GTL	Toni Shannon		\$11.00		\$25.78	COF
11/10/2023 07:40:11 PM	Kiosk Request	JPay Inc.			(\$11.00)	\$14.78	COF
11/16/2023				\$684.29	(\$1,292.96)	\$14.78	

Savings

Date	Deposit	Expense	Balance	Loc Code
11/16/2022			\$0.00	
No Activity				
11/16/2023	\$0.00	\$0.00	\$0.00	

Primary Transaction

Date	Transaction Type	Payer / Paid To	Voucher Number	Deposit	Expense	Balance	Loc Code
12/20/2022 04:30:01 PM	Vendor Refund	Access Securepak		\$164.24		\$277.89	COF
12/21/2022 03:37:13 PM	Stamps	AMF Institutional Services	AMF 122122 POSTAGE		(\$0.57)	\$277.32	AMF
12/23/2022 01:32:21 AM	Commissary Sale	Keefe Commissary	C104816211		(\$20.09)	\$257.23	AMF
12/26/2022 07:40:09 PM	Kiosk Request	JPay Inc.			(\$5.00)	\$252.23	COF
12/27/2022 03:56:13 PM	Stamps	AMF Institutional Services	AMF 122722 POSTAGE		(\$0.57)	\$251.66	AMF
12/27/2022 03:56:49 PM	Stamps	AMF Institutional Services	AMF 122722 POSTAGE		(\$0.57)	\$251.09	AMF
12/29/2022 10:58:44 AM	Money to Relatives	PHILLIP ABRON			(\$125.00)	\$126.09	AMF
01/03/2023 02:10:51 PM	Vendor Refund	Union Supply		\$4.23		\$130.32	COF
01/04/2023 08:53:55 AM	Legal Stamps	AMF Institutional Services	AMF 010423 LGL POST		(\$0.57)	\$129.75	AMF
01/04/2023 09:02:49 AM	Stamps	AMF Institutional Services	AMF 010423 POSTAGE		(\$1.92)	\$127.83	AMF
01/04/2023 07:40:11 PM	Kiosk Request	JPay Inc.			(\$4.50)	\$123.33	COF
01/06/2023 09:32:13 AM	Vendor Refund	Edward R. Hamilton		\$5.40		\$128.73	AMF
01/06/2023 02:52:12 PM	Legal Stamps	AMF Institutional Services	AMF 010623 LGL POST		(\$0.57)	\$128.16	AMF
01/06/2023 02:53:02 PM	Legal Stamps	AMF Institutional Services	AMF 010623 LGL POST		(\$0.57)	\$127.59	AMF
01/07/2023 01:30:52 AM	Commissary Sale	Keefe Commissary	C104835825		(\$31.04)	\$96.55	AMF
01/09/2023 01:58:26 PM	Stamps	AMF Institutional Services	AMF 010923 POSTAGE		(\$3.60)	\$92.95	AMF
01/11/2023 11:47:33 AM	Legal Supplies Disbursement	AMF PBF Legal Supplies			(\$0.81)	\$92.14	AMF
01/12/2023 07:40:12 PM	Kiosk Request	JPay Inc.			(\$5.71)	\$86.43	COF
02/04/2023 05:10:16 AM	GTL	Phillip Abron		\$11.00		\$97.43	COF
02/05/2023 07:40:10 PM	Kiosk Request	JPay Inc.			(\$11.00)	\$86.43	COF
02/22/2023 08:27:30 AM	Vendor Refund	Jack L. Marcus		\$3.18		\$89.61	COF
02/24/2023 08:13:29 AM	Stamps	AMF Institutional Services			(\$0.60)	\$89.01	AMF
03/01/2023 07:40:09 PM	Kiosk Request	JPay Inc.			(\$2.58)	\$86.43	COF
03/04/2023 05:10:13 AM	GTL	Phillip Abron		\$11.00		\$97.43	COF
03/05/2023 07:40:10 PM	Kiosk Request	JPay Inc.			(\$8.42)	\$89.01	COF
04/14/2023 08:39:17 AM	AMF-Food Service	300 - Food Service		\$7.92		\$96.93	AMF
04/15/2023 07:40:12 PM	Kiosk Request	JPay Inc.			(\$7.92)	\$89.01	COF
05/12/2023 08:19:21 AM	AMF-Food Service	300 - Food Service		\$15.84		\$104.85	AMF
05/12/2023 08:19:21 AM	AMF-Food Service	300 - Food Service		\$1.44		\$106.29	AMF
05/26/2023 01:31:24 AM	Commissary Sale	Keefe Commissary	C105057636		(\$10.55)	\$95.74	AMF
05/31/2023 04:00:01 AM	LEGAL POSTAGE - PBF	AMF PBF Postage			(\$0.45)	\$95.29	COF
06/02/2023 01:31:07 AM	Commissary Sale	Keefe Commissary	C105057636		\$1.00	\$96.29	AMF
06/02/2023 09:16:27 AM	Legal Stamps	AMF Institutional Services			(\$0.60)	\$95.69	AMF
06/06/2023 01:31:23 AM	Commissary Sale	Keefe Commissary	C105057636		\$0.87	\$96.56	AMF
06/10/2023 05:10:12 AM	GTL	Phillip Abron		\$11.00		\$107.56	COF
06/14/2023 08:21:26 AM	AMF-Food Service	300 - Food Service		\$5.04		\$112.60	AMF

▲ Caution
As of: September 8, 2023 3:54 PM Z

People v. Hardrick

Court of Appeals of Michigan

May 27, 2021, Decided

Nos. 348347; 348350

Reporter

2021 Mich. App. LEXIS 3358 *; 2021 WL 2178930

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v BERNARD ANTOINE **HARDRICK**, Defendant-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Subsequent History: Reconsideration denied by *People v. Hardrick*, 2021 Mich. App. LEXIS 4006 (Mich. Ct. App., June 30, 2021)

Held in Abeyance at *People v. Hardrick*, 969 N.W.2d 26, 2022 Mich. LEXIS 256, 2022 WL 286385 (Mich., Jan. 31, 2022)

Held in Abeyance at *People v. Hardrick*, 979 N.W.2d 323, 2022 Mich. LEXIS 1661, 2022 WL 4370716 (Mich., Sept. 21, 2022)

Leave to appeal denied by *People v. Hardrick*, 2023 Mich. LEXIS 1274, 2023 WL 5423143 (Mich., Aug. 22, 2023)

Prior History: [*1] Wayne Circuit Court. LC Nos. 15-007481-01-FH; 15-008119-01-FH.

People v. Hardrick, 2017 Mich. App. LEXIS 2087, 2017 WL 6502769 (Mich. Ct. App., Dec. 19, 2017)

Core Terms

false pretenses, trial court, counts, properties, adverse possession, conducting, amended information, criminal enterprise, closing argument, sentence, deeds, convictions, interrupt, racketeering, quitclaim deed, instructions, judgments, charges, removal, defendant argues, disruptive, new trial, conducting-a-criminal-enterprise, instances, prosecutor's argument,

transactions, retrial, waived, double jeopardy, real property

Counsel: For PEOPLE OF MI, Plaintiff-Appellee (348347): AMY SOMERS.

For BERNARD ANTOINE **HARDRICK** (348347, 348350), Defendant-Appellant: LINDSAY PONCE.

For PEOPLE OF MI, Plaintiff-Appellee (348350): WAYNE COUNTY PROSECUTOR.

Judges: Before: RONAYNE KRAUSE, P.J., and RIORDAN and O'BRIEN, JJ.

Opinion

PER CURIAM.

Defendant appeals as of right his convictions after a jury trial of one count of conducting a criminal enterprise, *MCL 750.159i(1)*, and three counts of false pretenses (\$1,000 or more but less than \$20,000), *MCL 750.218(4)(a)*. The trial court sentenced defendant as a fourth-offense habitual offender, *MCL 769.12*, to 20 to 35 years in prison for each conviction. For the reasons provided below, we affirm defendant's convictions, but we remand to the trial court for the ministerial task of correcting clerical errors in the judgments of sentence.

I. FACTS AND HISTORY

For the most part, the underlying facts of these cases are straightforward and were admitted by defendant at trial. Within a couple of weeks of being paroled from prison on June 16, 2015, defendant found so-called "abandoned" or vacant homes in Wayne County. His plan was to utilize the doctrine of "adverse possession" to claim an "interest" [*2] in the properties and then sell

the properties.¹ To effectuate this plan, quitclaim deeds were created, either by him or at his direction, that showed the properties being transferred from himself to one of his companies. Defendant recorded these deeds with the Wayne County Register of Deeds. Defendant would then list the properties on the Craigslist website for sale or lease to own. When prospective buyers inquired about the properties, defendant met them at the properties, told them he was the owner, and showed them the quitclaim deeds as "proof" that he held title.

Defendant was originally tried in 2016 and convicted of nine counts of forgery of a document affecting real property, *MCL 750.248b*, nine counts of uttering and publishing a document affecting real property, *MCL 750.249b*, three counts of using false pretenses to obtain money in an amount of \$1,000 or more but less than \$20,000, *MCL 750.218(4)(a)*, and one count of conducting a criminal enterprise, *MCL 750.159i(1)*. In a prior appeal, this Court reversed the convictions of forgery and uttering and publishing because the quitclaim deeds that were at the heart of those charged crimes were not "falsely made." *People v. Hardrick*, unpublished per curiam opinion of the Court of Appeals, [*3] issued December 19, 2017 (*Docket Nos. 333568 & 333898*, 2017 Mich. App. LEXIS 2087, *9). In other words, the instruments "did not purport to be anything other than quitclaim deeds conveying whatever interest defendant had in the property to his company or vice versa." *Id.* (emphasis added). The fact that defendant held no legal interest in the properties did not affect the authenticity of the deeds.

This Court also held that there was sufficient evidence to support defendant's convictions of conducting a criminal enterprise and false pretenses, 2017 Mich. App. LEXIS 2087, [*slip op.*] at 3-5, but still reversed those convictions and remanded to the trial court for a new trial on those four counts because defendant's right to self-representation was violated, 2017 Mich. App. LEXIS 2087, [*slip op.*] at 6-7. Accordingly, this Court remanded for a new trial on the charges of conducting a criminal enterprise and three counts of using false pretenses to obtain money in an amount of \$1,000 or more but less than \$20,000, 2017 Mich. App. LEXIS 2087, [*slip op.*] at 9.

Although defendant stated that he had recorded deeds for 21 properties, the retrial primarily involved five

properties: 18300 Glastonbury in Detroit, 3290 Sherbourne in Detroit, 13591 Lenore in Redford, 10065 West Outer Drive in Detroit, and 12661 Fordline in Southgate. [*4]² Evidence was presented that at the time of the transactions at issue, defendant had no property interest in the various properties. Indeed, during the summer of 2015, after their respective foreclosures, the following people or banks owned the various properties: M&T Bank owned the Glastonbury property after a March 15, 2012 sheriff's sale; Bank of America owned the Sherbourne property after a February 26, 2015 sheriff's sale; Chase Bank owned the Lenore property after a June 14, 2012 sheriff's sale; MetLife Bank owned the Outer Drive property after a January 17, 2013 sheriff's sale; and Cynthia Bowman had been the owner of the Fordline property since November 26, 1993. There was no evidence that any of these owners transferred any interest in the properties to defendant or his companies.

Defendant did not deny recording quitclaim deeds for these various properties and informing prospective purchasers that he was the "owner" before "selling" the properties to these individuals. His defense at trial was that no deceit was involved because he thought that he was following the law of adverse possession. While defendant acknowledged that adverse possession takes 15 years to obtain "clear" [*5] title,³ he asserted that he thought that before that time elapsed, he still had "the right to exercise powers and privileges of ownership."

The jury did not believe defendant and found him guilty as charged of one count of conducting a criminal enterprise and three counts of obtaining property valued at \$1,000 or more but less than \$20,000 by false pretenses.

II. RIGHT TO BE PRESENT AND TO BE REPRESENTED

Defendant argues that a new trial is required because his right to be present and his right to representation

² Specifically, a fifth amended information, which was the most current information leading up to the retrial, alleged in Count 1 that defendant had conducted a criminal enterprise with the predicate offenses being five instances of engaging in false pretenses for the Glastonbury, Sherbourne, Lenore, West Outer Drive, and Fordline properties. In Count 2, defendant was charged with false pretenses related to the Glastonbury property. In Count 3, defendant was charged with false pretenses related to the Sherbourne property. And in Count 4, defendant was charged with false pretenses related to the Lenore property.

¹ Defendant explained that, while imprisoned, he learned about adverse possession while conducting legal research in the law library.

were violated when the trial court removed him from the courtroom during a portion of the prosecutor's closing argument and during the prosecutor's rebuttal argument. We disagree.

During the prosecutor's closing arguments, defendant, representing himself, interrupted no fewer than 10 times. Each time defendant took exception with something the prosecutor said and attempted to place an objection on the record. After the third interruption, the trial court stated:

I can't tell the prosecutor how to conduct her closing argument as I can't tell you how to conduct yours, as long as it is orderly and it reflects what the evidence in the case said.

So please don't interrupt anymore. Closing [*6] arguments are not evidence.

Despite the trial court's admonishment to not interrupt anymore during closing arguments, defendant interrupted the prosecutor's very next statement, which characterized defendant as "scamming victim after victim." The court then told defendant to "[h]old your objections until the end of the arguments and then we'll make a record. Keep track of them and we'll make a record." The court further noted that if defendant continued to interrupt, it was going to deduct time from his closing arguments.

Undeterred, defendant interrupted the prosecutor's argument another seven times, for a total of 10 times. After this tenth interruption, the trial court excused the jury and had defendant removed, saying:

Mr. Hardrick, I told you at the beginning of this trial that if you continued, I almost excluded you from being present in your own trial and that you would be back there in the cell listening to it over a microphone.

You have continually tried to make a mockery of the legal system, of the court system. You don't respect yourself, you don't respect the citizens who are present, the Judge's staff, you don't respect anyone. You claim to be as good a lawyer as any lawyer [*7] who has a certification with . . . that training but you don't respect it. So you are really showing us a large degree of confusion. But I allowed you to represent yourself because I was convinced that you could do that and you have done that. But you are disobeying this court order. I told you yesterday when you were on the stand not to talk about the appellate process in this case. You

still told the jury that the case has been appealed, that the case had been reversed and the Supreme Court had done this, this and this, and I continually told you not to do it. I said if you continued to do it I was going to discontinue your testimony. I didn't discontinue your testimony. I let you go on and disrespect this Court and disregard this Court, okay.

Today I keep telling you that these are closing arguments, they're not evidence. Don't improperly interrupt the prosecutor when she's talking about what the evidence showed and what the prosecutor's position is on this case. You will have an opportunity to do it when we bring you back from the cell.

So I am going to exclude you from this trial right now. We are going to set up the microphone in the cell so we can finish this closing argument. [*8] When it is your turn, we'll bring you out. If you disregard the Court's order at that point, then I am going to discontinue your closing arguments. I am going to charge the jury and then a higher court can decide if I was right or wrong.

Let's take him back to the back.³

Although defendant was removed, standby counsel remained at defense table.

The prosecutor subsequently finished the last portion of her closing argument without interruption, which encompassed approximately three pages in the transcript. After defendant was brought back in and conducted his closing argument, he was led out again for the prosecutor's rebuttal argument, which encompassed about two pages of the transcript.⁴

On appeal, defendant claims that his right to be present and his right to representation were violated. Because defendant never argued in the trial court that his constitutional rights were violated, this issue is not preserved. See People v. Cameron, 291 Mich App 599, 617; 806 NW2d 371 (2011). Unpreserved constitutional issues are reviewed for plain error affecting substantial rights. People v. Wiley, 324 Mich App 130, 150; 919 NW2d 802 (2018). Thus, to avoid forfeiture, defendant

³It appears that the trial court misspoke when it used the term "microphone" and instead meant "speaker." There is no indication that the court intended to allow defendant to speak to the courtroom through a microphone, which would have frustrated the very purpose of defendant's removal.

⁴The prosecutor's argument and rebuttal encompassed approximately 20 pages total in the transcript.

must show that an error occurred, that the error was plain, i.e., clear or obvious, and that the error affected his substantial rights. People v. Carines, 460 Mich 750, 763; 597 NW2d 130 (1999). This [*9] last requirement generally requires a showing of prejudice, which means showing "that the error affected the outcome of the lower court proceedings." *Id.*

"The right to be present at one's trial is a fundamental right guaranteed the defendant by both statute, MCL 768.3, and as part of Fourteenth Amendment due process, Illinois v. Allen, 397 US 337; 90 S Ct 1057; 25 L Ed 2d 353 (1970)." People v. Montgomery, 64 Mich App 101, 103; 235 NW2d 75 (1975). However, through his conduct in the courtroom, a defendant can waive his right to be present. *Id.* Specifically, a defendant can waive his right to be present by "being so disorderly or disruptive that his trial cannot be continued while he is present." People v. Buie (On Remand), 298 Mich App 50, 57; 825 NW2d 361 (2012) (quotation marks and citation omitted).

Defendant in this case interrupted the prosecutor's closing argument 10 times before he was removed from the courtroom. After the third interruption, to keep the proceedings moving, the trial court instructed defendant to save his "objections" for after the prosecutor's arguments. Despite this mandate, defendant continued to interrupt. After the tenth interruption (seventh after being told not to interrupt anymore), the trial court finally removed defendant from the courtroom. Defendant's repeated interruptions can best be characterized as disagreements with the prosecutor's view of the evidence and legal [*10] theories. But this is precisely the purpose of closing argument. See People v. Finley, 161 Mich App 1, 9; 410 NW2d 282 (1987) ("The purpose of closing argument is to allow attorneys to comment on the evidence and to argue their theories of the law to the jury."), *aff'd* 431 Mich 506; 431 N.W.2d 19 (1988). Consequently, defendant's "objections" had no merit.⁵

Thus, with defendant repeatedly interrupting the prosecutor's argument for unfounded reasons, it is clear that defendant was being disruptive and was subject to being removed. However, the United States Supreme Court has said that a disruptive defendant can be removed only "after he has been warned by the judge that he will be removed if he continues his disruptive

behavior." Allen, 397 US at 343. There is no indication in the record that the trial court warned defendant that his continued behavior of interrupting the proceeding could result in his removal. Instead, the only warning given was that defendant's allotment of time for his own closing argument could be reduced. Consequently, it appears that the trial court erred—not by removing defendant, but by removing him without first warning him that removal would be a consequence of his continued disruptive actions.

"[T]he test for whether a defendant's absence from a part of his trial requires [*11] reversal of his conviction is whether there was any reasonable possibility that defendant was prejudiced by his absence." People v. Armstrong, 212 Mich App 121, 129; 536 NW2d 789 (1995); see also People v. Morgan, 400 Mich 527, 535; 255 NW2d 603 (1977) ("[I]t is no longer the law that injury is conclusively presumed from defendant's every absence during the course of a trial."); Buie, 298 Mich App at 59. Given the relatively short time defendant was absent, the fact that his absence only pertained to the prosecutor's rebuttal and a small portion of the prosecutor's closing argument, and that defendant was able to continue to hear the prosecutor's arguments over a speaker in another room, defendant has failed to show a "reasonable possibility" that he was prejudiced. Defendant argues that he was prejudiced because he was unable to make any further objections or request any curative instructions. However, defendant does not identify any specific, valid objections he would have raised had he remained present. After reviewing the remainder of the prosecutor's closing argument and her rebuttal argument, we likewise see no grounds where an objection would have been successful. Thus, any objection would have been futile, and any inability to raise a futile objection cannot constitute prejudice.

Moreover, defendant's contention that [*12] he was unable to make any further objections to the prosecutor's argument is not supported by the record. The trial court clearly stated that defendant could—and requested that he do—raise any objections he wanted at the conclusion of the prosecutor's argument. It is evident from the record that defendant could still hear everything that was being said while he was removed. Thus, defendant could have raised any objection after arguments, as the trial court requested. Simply put, contrary to defendant's assertion on appeal, he was not prohibited from raising objections to anything that was said while he was absent from the courtroom.

Therefore, although it appears that the trial court plainly

⁵On appeal, defendant does not argue that any of the prosecutor's remarks during closing argument were improper.

erred by not providing a warning to defendant before removing him from the courtroom, reversal is not warranted on this issue because there is no reasonable possibility that he was prejudiced.⁶

Defendant also argues that his removal denied him the right to representation. Defendant's argument has no merit. First, it is undisputed that defendant had waived his right to counsel and instead desired to represent himself. Second, defendant identifies no authority that, merely because he was representing [*13] himself, his right to self-representation could not be waived on account of disruptive behavior.

Defendant also claims that the issue was "compounded" because the trial court never expressly designated his standby counsel as the primary counsel after defendant's removal. We agree that, ideally, the trial court should have informed standby counsel that she was no longer "standing by" after defendant's removal. But by definition, being "standby" meant that counsel would take over the representation of defendant if he was unable or unwilling to continue representing himself. See *Black's Law Dictionary* (11th ed), (defining "standby counsel" as "[a] lawyer appointed by the court to be prepared to represent a defendant who waived the right to counsel" and "[a] court-appointed or privately hired lawyer who is prepared to assume representation of a client if the client's primary lawyer withdraws or is fired by the client, or if a pro se defendant's self-representation ends"). Thus, it is not obvious or clear that defendant was without representation after his removal. Although the trial court did not expressly designate counsel as "primary" counsel, there is nothing in the record that shows [*14] that counsel did not nonetheless take on that role. The fact that counsel did not raise any objections during the remainder of the prosecutor's closing argument or during the prosecutor's rebuttal argument should not be considered significant where defendant does not identify any specific, valid grounds for an objection, and none are apparent. Therefore, defendant cannot show under the plain-error

⁶ Our conclusion that reversal is not warranted on this issue would remain unchanged even if the issue was deemed preserved, i.e., that defendant, by his conduct, preserved an objection to his removal from the courtroom. This is because the "reasonable possibility" standard applies regardless of whether an objection is lodged. See generally, *People v Woods*, 172 Mich App 476, 479-480; 432 NW2d 736 (1988) (addressing whether the defendant's absence from trial warranted a new trial without discussion of issue preservation).

standard that he was without representation during closing arguments.⁷

Lastly, defendant argues that the trial court erred by failing to provide a curative instruction to the jury regarding his absence. However, when asked if he was satisfied with the instructions as given, defendant only had a concern regarding the unanimity instruction. Accordingly, any instructions or lack thereof regarding defendant's disruptions and subsequent removal are waived, and waiver extinguishes any error. *People v Carter*, 462 Mich 206, 215-216; 612 NW2d 144 (2000). In any event, defendant's assertion that the trial court provided no instruction on this matter, either immediately after defendant was removed or during final jury instructions, is not supported by the record. One of the very first instructions the trial court provided during the final instructions was that [*15] "[a]ny disruptions that we've had during the trial, please do not pay attention to these disruptions and not use it in any way to decide your verdict in this case." Given the lack of other "disruptions" during trial, it is apparent that the trial court was referring to defendant and his earlier removal. Consequently, even if defendant had not waived this issue with respect to jury instructions, and the issue was merely unpreserved, defendant cannot show any plain error.

III. JURY INSTRUCTIONS

Defendant argues that the trial court erred when it failed to provide the jury with an instruction on a claim-of-right defense and an instruction on adverse possession. We disagree.

"The determination whether a jury instruction is applicable to the facts of a case is reviewed for an abuse of discretion; however, questions of law relative to jury instructions are reviewed de novo." *People v Mikulen*, 324 Mich App 14, 20; 919 NW2d 454 (2018). A court abuses its discretion when it selects an outcome falling outside the range of reasonable and principled outcomes. *People v Dixon-Bey*, 321 Mich App 490, 496;

⁷ Regardless of what standard we apply to his assertion that he was without representation during closing arguments, we nonetheless conclude that reversal is not warranted because he has not affirmatively shown that he was without counsel during that stage of the proceedings. See *Brooks v United States*, 500 F2d 103, 105 (CA 8, 1974) (explaining that "[o]rdinarily, the burden of proof is on an accused to establish that he was denied the right to counsel" at a critical stage) (citation omitted).

909 NW2d 458 (2017). Further, whether a defendant was denied the constitutional right to present a defense is reviewed de novo. *People v Kurr*, 253 Mich App 317, 327; 654 NW2d 651 (2002).

Defendant's primary defense at trial was that he thought he was exercising his rights under [*16] the doctrine of adverse possession when he recorded quitclaim deeds for properties he did not own and then later attempted to sell those properties. Consequently, defendant requested that the trial court provide the jury with instructions regarding a claim-of-right defense and adverse possession. The trial court denied the requests because it determined that there was insufficient evidence to support the instructions.

"A court must properly instruct the jury so that [the jury] may correctly and intelligently decide the case. The instruction to the jury must include all elements of the crime charged, and must not exclude from jury consideration material issues, defenses or theories if there is evidence to support them." *People v Traver*, 502 Mich 23, 31; 917 NW2d 260 (2018) (quotation marks and citations omitted). Further, the United States Constitution guarantees that "[a] criminal defendant must be provided a meaningful opportunity to present evidence in his or her own defense." *People v Bosca*, 310 Mich App 1, 47; 871 NW2d 307 (2015).

The trial court did not abuse its discretion when it determined that there was insufficient evidence to support instructing the jury on adverse possession and a claim-of-right defense.

"To establish adverse possession, the party claiming it must show 'clear and [*17] cogent proof of possession that is actual, visible, open, notorious, exclusive, continuous and uninterrupted for the statutory period of 15 years, hostile and under cover of claim of right.'" *Beach v Lima Twp*, 489 Mich 99, 106; 802 NW2d 1 (2011), quoting *Burns v Foster*, 348 Mich 8, 14; 81 NW2d 386 (1957). In this instance, there was no evidence to show that the requirements of adverse possession had been met. Even assuming that defendant met the "actual, visible, open, notorious, exclusive, [and] continuous" requirements of possession,⁸ he did not meet the 15-year requirement.

⁸ We note that merely recording a quitclaim deed and showing the property to prospective buyers hardly constitutes the type of open, visible, and notorious possession needed. See *Burns*, 348 Mich at 15 ("To make good a claim of title by adverse possession, . . . the possession must be so open, visible, and

Indeed, as the prosecutor noted in her closing argument, defendant barely had 15 days of "possession," let alone 15 years. Notably, defendant admitted that he did not meet the 15-year requirement as well. Therefore, the trial court did not err by refusing to provide an instruction on adverse possession when it was undisputed that the elements were not satisfied.

Although defendant acknowledged that he did not meet the 15-year statutory period, he claimed that under his view of the law, an adverse possessor would have "the right to exercise the powers and [*18] privileges of ownership," even before that 15-year period lapsed. Contrary to defendant's assertion, that is not the law of adverse possession. See *Beach*, 489 Mich at 107 (stating that only after the statutory period ends does the adverse possessor acquire "legal title"). Consequently, there is no instruction that could have aided defendant with his theory. At best, defendant could have claimed, which he did, that this was his understanding of the law after conducting his own research. But because this defense primarily deals with defendant's personal, subjective beliefs, no jury instruction was needed regarding the actual legal concept of adverse possession. In fact, because the law does not support defendant's view, providing the law to the jury may have inured to the benefit of the prosecution. In other words, not having the trial court provide the law of adverse possession to the jurors allowed them to work from a somewhat nebulous concept,⁹ which arguably gave them a better chance at believing defendant. Accordingly, because an instruction on adverse possession did not support defendant's theory, he cannot show how he was denied the right to present a defense. Importantly, defendant was able to present [*19] his defense that he had no intent to deceive because he thought he was acting within his understanding of the law of adverse possession. No instruction on the actual law of adverse possession would have helped him with this defense.

At trial, defendant also requested the following claim-of-right instruction:

Claim of title or claim of right is essential to adverse possession, but it is not necessary that an adverse

notorious as to raise the presumption of notice to the world that the right of the true owner is invaded intentionally.") (emphasis in original).

⁹ Although the trial court did not provide an instruction on adverse possession, a rough definition was mentioned by a witness. Regardless, it was stressed that the court was to be the source of law.

claimant should believe in his title, or that he should have any title. He may have no shadow of title and be fully aware of that fact, but he must claim title. He may go into possession without any claim of title, but his possession does not become adverse until he asserts one; and he may assert it by openly exercising acts of ownership, with the intention of holding the property as his own to the exclusion of all others. [Some capitalization altered.]

Preliminarily, the instruction that defendant argues on appeal should have been provided is not the same as the one he actually requested. On appeal, defendant cites M Crim JI 7.5 as the instruction that should have been given, but that instruction deals with a defense to larceny.¹⁰ Therefore, to the extent that defendant contends that the [*20] trial court should have provided M Crim JI 7.5, that issue is not preserved. See *People v Sabin (On Second Remand)*, 242 Mich App 656, 657; 620 NW2d 19 (2000). And because M Crim JI 7.5 addresses larceny-type crimes, the trial court did not plainly err by failing to provide that instruction in this instance. That is because this case dealt with real property that cannot be the subject of a larceny. See *People v March*, 499 Mich 389, 401; 886 NW2d 396 (2016).

¹⁰ M Crim JI 7.5 provides as follows:

(1) To be guilty of [larceny / robbery / (state other crime)], a person must intend to steal. In this case, there has been some evidence that the defendant took the property because [he / she] claimed the right to do so. If so, the defendant did not intend to steal.

(2) When does such a claimed right exist? It exists if the defendant took the property honestly believing that it was legally [his / hers] or that [he / she] had a legal right to have it. Two things are important: the defendant's belief must be honest, and [he / she] must claim a legal right to the property.

(3) You should notice that the test is whether the defendant honestly believed [he / she] had such a right. It does not matter if the defendant was mistaken or should have known otherwise. [It also does not matter if the defendant (used force / trespassed) to get the property or if [he / she] knew that someone else claimed [*21] the property.]

(4) The defendant does not have to prove [he / she] claimed the right to take the property. Instead, the prosecutor must prove beyond a reasonable doubt that the defendant took the property without a good-faith claimed right to do so.

Moreover, the trial court did not err by declining to provide the requested instruction regarding a claim of right. Defendant obtained this "instruction" from *Smith v Feneley*, 240 Mich 439, 441-442; 215 NW 353 (1927), and it pertains to adverse possession. Specifically, the Court was addressing the "claim of right" element of adverse possession, explaining that "[t]he belief or knowledge of the adverse claimant is not as important as his intentions. The intention is the controlling consideration and it is not the knowledge or belief that another has superior title, but the recognition of that title that destroys the adverse character of possession." *Id.* at 441. As already discussed, any instruction on adverse possession was not warranted, so this further layer of law with regard to adverse possession also was not warranted. Notably, nothing prevented defendant from explaining to the jury that this is the law or text he found, which formed the basis for his belief that he had actual title or right to the [*22] properties. In other words, the relevance of this passage goes only to defendant's state of mind after reading it. Accordingly, it would not have been proper for the court to instruct the jury on it. Instead, the law, i.e., the text that defendant found and supposedly relied on, was more *evidentiary* in nature as a way to explain his thought process.¹¹

Likewise, because the failure to provide this instruction did not affect defendant's ability to present his defense, his constitutional right to present a defense was not violated.

IV. CLERICAL ERRORS IN JUDGMENTS

Defendant requests that this Court remand to the trial court for correction of clerical errors in the judgments of sentence. Because there are other errors in the judgments as well, we agree that remand for the ministerial task of modifying the judgments is warranted.

In the instant case, defendant initially was sentenced under two judgments of sentence that were entered on March 6, 2019, one for LC 15-007481-01-FH and another for LC 15-008119-01-FH. Both judgments were later amended on August 31, 2020. All four judgments state, "The defendant was found guilty on 03/23/2016."

¹¹ Moreover, defendant's interpretation at trial of this excerpt from *Smith* is incorrect. This provision does not mean that an adverse possessor *actually has* all rights and privileges of ownership before the expiration of the 15-year period. Instead, an adverse possessor must act as if he has such rights, but the possessor has no actual title or rights before the expiration of that 15-year period.

These dates of conviction are incorrect. [*23] Those dates represent the dates defendant was convicted at his first trial; but after this Court's remand and a new trial was held, defendant was convicted on February 2, 2019.

Additional, more substantial clerical errors are also apparent in the judgments of sentence. In LC 15-007481-01-FH, defendant was convicted of one count of conducting a criminal enterprise and one count of false pretenses. The amended judgment of sentence specifies that defendant was convicted of these counts, but in the sentence portion, it only lists the sentence for the conducting-a-criminal-enterprise conviction. Defendant's sentence for the false-pretenses conviction is not listed and should be reflected on this judgment.

Furthermore, the amended judgment of sentence for LC 15-008119-01-FH states that defendant was found guilty of two counts of false pretenses, which are listed as Counts 2 and 4. But under the sentencing portion, the counts are listed as Counts 3 and 4. They properly should be listed as Counts 3 and 4 because Counts 1 and 2 were captured on the other judgment.¹²

Therefore, we remand for the ministerial task of correcting the amended judgments of sentence as follows:

LC No. 15-007481-01-FH

- under [*24] "THE COURT FINDS" section, the date of conviction should be listed as 02/07/2019
- under the sentencing section, the sentencing for Count 2 that had been omitted should be added

LC No. 15-008119-01-FH

- under "THE COURT FINDS" section, the date of conviction should be listed as 02/07/2019
- under "THE COURT FINDS" section, the counts should be listed as Counts 3 and 4 to match how they are represented in the sentencing section

V. DEFENDANT'S STANDARD 4 BRIEF

Defendant raises several additional issues in his Standard 4 brief on appeal,¹³ but as discussed below,

¹² Indeed, the initial March 6, 2019 judgment labeled them as Counts 3 and 4.

¹³ A pro se brief filed pursuant to Supreme Court

none have merit.

A. DUE PROCESS

Defendant argues that his right to due process was violated because the information failed to inform him which charged counts were associated with which lower court file, and because the information alleged that Redford Township was the only victim. We disagree. This Court reviews constitutional issues de novo. *People v Benton*, 294 Mich App 191, 203; 817 NW2d 599 (2011).

After this Court's remand and before defendant's retrial commenced, a fifth amended information was issued, which listed only a single case number, "8215007481." And under "Complainant or Victim," the information only listed "TOWNSHIP OF REDFORD."

"The *Due Process Clause of the Fourteenth Amendment* mandates that a state's method for charging [*25] a crime give a defendant fair notice of the charge against the defendant, to permit the defendant to adequately prepare a defense." *People v Chappo*, 283 Mich App 360, 364; 770 NW2d 68 (2009). "The purpose of an information in a criminal case is to inform the defendant of the charge made against him." *People v Camrger*, 37 Mich App 605, 609; 195 NW2d 25 (1972) (quotation marks and citation omitted). An information is to contain the following: (1) the "nature of the offense stated in language which will fairly apprise the accused and the court of the offense charged"; (2) "[t]he time of the offense as near as may be"; and (3) "[t]hat the offense was committed in the county or within the jurisdiction of the court." *MCL 767.45(1)(b)-(c)*. Further, under *MCL 767.76* and *MCR 6.112(H)*, a court may amend an information at any time, which can be before, during, or after trial. See *People v McGee*, 258 Mich App 683, 687; 672 NW2d 191 (2003). But any "amendment must not cause unacceptable prejudice to the defendant through 'unfair surprise, inadequate notice, or insufficient opportunity to defend.'" *Id.* at 688, quoting *People v Hunt*, 442 Mich 359, 364; 501 NW2d 151 (1993); see also *Chappo*, 283 Mich App at 364 ("Prejudice is essential to any claim of inadequate notice.").

We find no error requiring reversal on account of the information failing to state which count was associated with which lower court file. For one thing, the information *does* specify—it clearly provides that all four counts are associated [*26] with case "8215007481," which

Administrative Order No. 2004-6, Standard 4.

presumably relates to LC 15-007481-01-FH. Accordingly, the premise for defendant's argument that he was never informed which counts were associated with which lower court files is not supported by the record. Plainly, defendant was notified that all the counts were associated with LC 15-007481-01-FH. The accuracy of this is another matter, but defendant cites no authority for the proposition that a (presumed) error in the listing of a lower-case number on an information is a ground for reversal. Indeed, it is not clear how any such error could be deemed prejudicial.¹⁴ Regardless of what the court number was supposed to be, the information provided defendant with the required notice on the four separate counts. Therefore, his argument related to a purported lack of a lower court file number (or an incorrect lower court file number) does not warrant reversal.

The other aspect of defendant's argument is that the information fails to identify anyone other than Redford Township as a victim. Notably, under MCL 767.45(1), naming a victim is not required. All that is required is to adequately describe the nature of the charged offense. And in the information, it mentioned the [27] specific addresses from the real estate transactions that were associated with each incident of false pretenses. Accordingly, despite the fifth amended information not listing the names of the individuals who had been defrauded on these transactions, the information supplied sufficient information, by virtue of the inclusion of the addresses for the various property transactions, for defendant to know which conduct was at issue. Moreover, contrary to defendant's assertion, the prosecutor did amend the information to add these individual victim names. The fact that this sixth amended information was created after trial is of no moment because that is expressly permitted under the law, as long as there is no prejudice. McGee, 258 Mich App at 687-688. And defendant cannot show any prejudice because in his first trial, there was evidence presented that all of these named victims had been involved with defendant in the various property transactions. Thus, the addition of the names in the sixth amended information does not and cannot constitute unfair surprise.

In sum, defendant's complaints about the information are unwarranted. He has failed to show how he was prejudiced by any perceived errors. There is no

question [28] that he had notice of the charges he was facing at trial. Aside from the fifth (and sixth) amended information clearly specifying the charges he was facing, this Court's prior decision specified which four counts were subject to retrial. Hardrick, 2017 Mich App LEXIS 2087, [slip op.] at 1, 9.¹⁵ It was immaterial which lower court files these counts were tied to.

B. ADDITION OF COUNTS

Defendant argues that reversal is required because he was tried on charges that the prosecution had added after this Court's remand that were not the subject of a preliminary examination. We disagree with defendant's positions.

At the outset, defendant's position is multifaceted and somewhat hard to follow. He acknowledges that this Court remanded for a new trial on one count of conducting a criminal enterprise and three counts of false pretenses. Although a new trial was held on these four charges, he maintains that this was improper. Most of his argument stems from the fact that in the third amended information, which was the latest information for defendant's original trial, under the conducting-a-criminal-enterprise charge, it alleged that defendant knowingly conducted or participated "in the affairs of the enterprise [29] directly or indirectly through a pattern of racketeering activity, consisting of two or more" incidents. The information then listed 13 incidents of racketeering. Of those 13 incidents, 10 were for the forgery of a document affecting real property and three were for false pretenses. Notably, the three incidents involving false pretenses were for transactions involving properties located at 18300 Glastonbury, 12661 Fordline, and 10065 West Outer Drive.¹⁶

On remand, new information documents were filed. Because this Court determined that defendant could not

¹⁵ This Court stated that defendant was subject to retrial on "the charges of conducting a criminal enterprise and using false pretenses to obtain money in an amount of \$1,000 or more, but less than \$20,000." Hardrick, 2017 Mich App LEXIS 2087 at *16. But earlier in its opinion, this Court specified that the conducting-a-criminal-enterprise count was from LC No. 15-007481-01-FH. *Id.* at 1. The opinion further reflected that one count of false pretenses came from LC No. 15-007481-01-FH and two counts of false pretenses came from LC No. 15-008119-01-FH. *Id.*

¹⁶ Separately, the third amended information listed three individual counts of false pretenses (Counts 26, 30, and 31) for the Lenore, Glastonbury, and Sherbourne properties.

¹⁴ It was undisputed that while there were two different case files originally, the cases were consolidated for trial.

be convicted of forgery of documents affecting real property. Hardrick, 2017 Mich App LEXIS 2087, [slip op.] at 5, the fifth amended information removed references to those crimes and spelled out that the racketeering activities consisted of false pretenses for the properties located at 13591 Lenore, 18300 Glastonbury, 3290 Sherbourne, 12661 Fordline, and 10065 West Outer Drive. Thus, instead of three incidents of false pretenses supporting the charge of conducting a criminal enterprise, there were now five.

Consequently, defendant's characterization that the prosecutor "added" charges is unfounded. This Court ordered that defendant was subject to retrial on one [30] count of conducting a criminal enterprise and three counts of false pretenses, and that is what happened. The prosecutor did not "add" any charges at the retrial. At the prior trial, defendant was charged with, *inter alia*, one count of conducting a criminal enterprise and three counts of false pretenses, with the three false-pretenses counts relating to 13591 Lenore, 18300 Glastonbury, and 3290 Sherbourne. Those same charges were at issue in the second trial.

The only difference was that after this Court's remand for a new trial, the prosecutor listed five incidents of false pretenses to support the conducting-a-criminal-enterprise allegation instead of the three that were alleged in the third amended information. The addition of these other incidents of racketeering did not result in a "new" charge or offense being added. In both the third amended information (subject of first trial) and the fifth amended information (subject of second trial), there was a count of conducting a criminal enterprise.

Also, to the extent that defendant focuses on the addition of these two incidents of false pretenses to support the charge of conducting a criminal enterprise in the fifth amended information, [31] he cannot show any prejudice. Notably, the two "extra" instances of false pretenses in support of that charge were alleged, as independent crimes, in the third amended information. Simply put, although the prosecutor alleged that there were more instances of racketeering to support the crime of conducting a criminal enterprise, these additional instances already had been alleged as separate crimes in the original trial. Therefore, defendant was not prejudiced. The third amended information put him on notice that he had to defend against the allegations that he had engaged in false pretenses related to the Glastonbury, Fordline, Outer Drive, Lenore, and Sherbourne transactions. Thus, there can be no prejudice when the fifth amended

information also alleged that defendant had engaged in false pretenses related to those very same properties.

In sum, defendant has failed to show how there was any "unfair[] surprise or prejudice" with how he was charged in the fifth (or sixth) amended information. MCR 6.112(H).

Defendant's contention that he was denied a preliminary examination with respect to the "new" racketeering charge also is unfounded. As already explained, there was no "new" racketeering charge. [32] Thus, because the racketeering charge was the subject of the September 8, 2015 preliminary examination, which was held before the first trial, defendant cannot show any error or prejudice. See People v Sims, 257 Mich 478, 482, 241 NW 247 (1932) ("There being no new or different charge introduced by amendment, there is no occasion for a new examination or a rearraignment.").

C. SUFFICIENCY OF THE EVIDENCE

Defendant argues that there was insufficient evidence to support his conviction of conducting a criminal enterprise. We disagree.

A challenge to the sufficiency of the evidence is reviewed de novo by viewing the evidence in a light most favorable to the prosecution to "determine if any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." People v Cline, 276 Mich App 634, 642, 741 NW2d 563 (2007) (quotation marks and citation omitted). "All conflicts with regard to the evidence must be resolved in favor of the prosecution. Circumstantial evidence and reasonable inferences drawn from it may be sufficient to prove the elements of the crime." People v Wilkens, 267 Mich App 728, 738, 705 NW2d 728 (2005) (citation omitted).

MCL 750.159i(1) provides that "[a] person employed by, or associated with, an enterprise shall not knowingly conduct or participate in the affairs of the enterprise directly or indirectly [33] through a pattern of racketeering activity." Racketeering is defined, in relevant part, as "committing, attempting to commit, [or] conspiring to commit . . . an offense for financial gain" involving false pretenses. MCL 750.159g(w). And a "pattern of racketeering" is defined, in relevant part, as "not less than 2 incidents of racketeering," MCL 750.159f(c), where "racketeering" includes incidents of obtaining money or property through false pretenses, MCL 750.159g(w).

Notably, defendant does not actually aver that there was insufficient evidence introduced at trial to support his conviction. Instead, he first argues that his conviction should be overturned because of what was stated in the original information that was filed in this case. Specifically, he avers that because the initial information only listed a single instance of false pretenses as a predicate offense for the conducting-a-criminal-enterprise charge, the offense cannot be established because it requires two or more instances.¹⁷ But he does not explain (1) how an information is relevant to whether there was sufficient evidence presented at trial to support a conviction and (2) assuming information documents were relevant, why the *initial* information would be of significance [*34]. In any event, when the *fifth* amended information was the most recent one before his retrial. And assuming the information from the first trial was relevant, the third amended information, which was the effective one at the time of defendant's first trial, listed among the predicate offenses under the conducting-a-criminal-enterprise count instances of false pretenses related to 18300 Glastonbury, 12661 Fordline, and 10065 West Outer Drive. Thus, with the fifth amended information listing five instances of false pretenses, the pertinent information documents at both trials each listed "2 or more" instances of false pretenses. *MCL 750.159f(c)*. Accordingly, defendant's position that there was only a single predicate instance of false pretenses is without merit.

For his second argument, defendant asserts that there was insufficient evidence that Redford Township was a victim of the charged crimes. Again, defendant focuses on the information, where the fifth amended information only listed Redford Township as the "complainant or victim." He does not dispute that there was evidence presented showing that several individuals had given him money on account of his representations that he owned the properties [*35] in question. Moreover, assuming that this type of "victim" designation on an information is "controlling,"¹⁸ defendant ignores that a sixth amended information listed the names of individual victims. Thus, the premise for this argument is wanting.

Defendant next argues that there was insufficient

¹⁷ Along with this one instance of false pretenses, the information also listed 10 instances of forgery of a document affecting real property as the predicate offenses for the conducting-a-criminal-enterprise count.

¹⁸ Defendant cites no authority showing that such a designation is controlling in any manner.

evidence to support his conviction because he actually held a legal claim to the properties. However defendant wishes to characterize his "claim," there was no evidence that he possessed legal title to the properties. On the contrary, there was evidence that at the time defendant "sold" the properties in question, other people or banks owned the properties—not him. Defendant's reliance on his various deeds is grossly misplaced. There is nothing magical about recording a document with the register of deeds.¹⁹ His recording of quitclaim deeds that purported to give his companies legal title merely transferred whatever interest he had in the properties (which was none) to those entities. There is no question that defendant held no valid property interests in these properties²⁰; thus, the quitclaim deeds transferred nothing. This is why defendant's forgery convictions were overturned, but the false-pretenses [*36] convictions were not—"the deeds only purported to convey whatever interest defendant or his company possessed, even if neither possessed any legal interest." *Hardrick, 2017 Mich. App. LEXIS 2087, [slip op.] at 5*. Defendant's reliance on the doctrine of adverse possession fails for many reasons, but the primary one is that the 15-year statutory period had not elapsed.²¹ Indeed, defendant freely admitted this at trial. Thus, as explained in Part III, contrary to defendant's assertions, until that 15-year period lapses, defendant holds no title.

Despite not qualifying to take title under the doctrine of adverse possession, defendant nonetheless would have to be acquitted if he held an honest belief that he was

¹⁹ Indeed, it was presented at trial that the register of deeds has no power or authority to look into the validity of any document before being recorded. As an example, an employee from the Wayne County Mortgage and Deed Fraud Unit explained that as long as the document is filled out, it will be accepted for recording, even if it reflects a conveyance from "Bugs Bunny" to "Elmer Fudd."

²⁰ Although defendant at trial and on appeal cites this Court's prior opinion for its pronouncement that the forgery charges were not proper, defendant fails to also acknowledge that the lack of "forgery" does not make his deeds "legitimate" in the sense that they conveyed actual title. See *Hardrick, 2017 Mich. App. LEXIS 2087, [slip op.] at 4* ("The evidence presented at trial, however, showed that defendant was not the owner of the properties.").

²¹ There should be little question that whatever "possession" defendant had was minimal and fleeting and certainly not open, visible, or notorious, which are required to sustain a claim of adverse possession. See Note 6 of this opinion.

the owner of the properties because false pretenses requires, among other things, that "at the time the pretense was used[,] the defendant must have known it to be false." *People v Lueth, 253 Mich App 670, 680; 660 NW2d 322 (2002)*. This was a determination for the jury, and the jury found defendant not credible in this regard. As this Court stated previously, "[a]lthough defendant claimed he believed he was the owner [on account of his understanding of the law], the jury could have reasonably found that defendant knew the representations to be false." [*37] *Hardrick, 2017 Mich. App. LEXIS 2087, [slip op.] at 5*. Thus, there was sufficient evidence to support defendant's convictions, which all involved false pretenses.

In his fourth argument, defendant contends that the trial court entered a conviction for conducting a criminal enterprise "based on one count of false pretenses." This is not true. First, the judgment of sentence does not indicate what the underlying conduct was in relation to this conviction. Defendant apparently is conflating the fact that in that judgment of sentence, he also was convicted of one count of false pretenses. But that false-pretenses conviction is wholly independent from the conviction for conducting a criminal enterprise. As had been discussed ad nauseum at the trial court, defendant was to be tried on four separate and distinct counts: one count of conducting a criminal enterprise and three counts of false pretenses.²² While the conducting-a-criminal-enterprise count involved other underlying conduct, that underlying conduct did not have to be charged as individual counts. Therefore, defendant's assertion that he was convicted on the basis on a *single* underlying act is not supported by the record. Indeed, the trial court instructed the jury that there were *multiple* [*38] alleged incidents of racketeering as the basis for this particular charge. As such, there is no basis for defendant's contention that his conviction was premised on a single underlying act. As previously described, there was evidence presented that defendant engaged in false pretenses multiple times. Because defendant admitted to creating and recording the deeds and selling the various properties, the only question the jury had to resolve was whether defendant's assertions to the purchasers that he was the "owner" was done with the knowledge that he was not the true owner. See *Lueth, 253 Mich App at 680*. And in this instance, the jury did not accept his version and instead concluded

that defendant knew that he did not hold title.

Because none of defendant's arguments has any merit, he cannot prevail on the issue of there being insufficient evidence to support his conviction for conducting a criminal enterprise.

D. RIGHT OF CONFRONTATION

Defendant argues that he was denied the right to confront his accuser, Redford Township. We disagree.

"The *Confrontation Clause of the United States Constitution* provides that '[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him" *People v Fackelman, 489 Mich 515, 524-525; 802 NW2d 552 (2011)*, quoting *US Const. Am VI*. "The *Confrontation Clause* is primarily [*39] a functional right in which the right to confront and cross-examine witnesses is aimed at truth-seeking and promoting reliability in criminal trials." *People v Nunley, 491 Mich 686, 697; 821 NW2d 642 (2012)* (quotation marks and citation omitted). The right is violated when out-of-court testimonial statements are admitted in evidence, unless the declarant appeared at trial or the defendant had a previous opportunity to cross-examine the declarant. *Id. at 688*.

Defendant does not cite any evidence that was admitted contrary to this constitutional mandate. Put another way, defendant has not identified any testimonial statements that were admitted into evidence at trial where the declarant was not subject to cross-examination. Accordingly, he has failed to show how his right of confrontation was violated.

Instead, as with most of his issues, defendant focuses on the information. In the fifth amended information, it listed the "Complainant or Victim" as Redford Township.²³ Because of this designation, defendant maintains that he had the right to cross-examine Redford Township, seemingly irrespective of the evidence introduced. Defendant's view seems to take a simplistic view of the *Confrontation Clause*, such that any "victim" must be subject to cross-examination.²⁴ As already [*40] described, this is not what the *Confrontation Clause* requires. As long as there were no

²³ As previously discussed, a sixth amended information added the names of the individual victims as well.

²⁴ This position is untenable because under defendant's theory, no murder could successfully be prosecuted because the victim would not be able to testify at trial.

²² The trial court stressed to the jury that the four charged crimes are indeed separate charges and each one would be reflected on its own verdict form.

testimonial statements attributable to "Redford Township" that were admitted into evidence, the Confrontation Clause is not implicated. See *id.* And here, no such statements were introduced into evidence.

E. DOUBLE JEOPARDY

Defendant argues that his convictions for conducting a criminal enterprise and false pretenses violate double jeopardy because the allegations of false pretenses were contained within the conducting-a-criminal-enterprise crime. We disagree.

An issue is preserved if it is raised in and decided by the trial court. Cameron, 291 Mich. App. at 617. Defendant never asserted that he was being tried or punished for the same crimes (false pretenses) twice in violation of double jeopardy. Accordingly, that portion of defendant's argument is not preserved. Defendant, however, did raise the issue of relitigating the legality of his deeds. Therefore, that argument is preserved. But to the extent that this issue also involves prosecutorial misconduct during rebuttal, defendant raised no objections; therefore, that aspect is not preserved.²⁵

"The Double Jeopardy Clause, US Const. Am V, protects against '(1) multiple prosecutions for the same offense after acquittal or conviction; and (2) multiple punishments [¶41] for the same offense.'" People v Duenaz, 306 Mich. App. 85, 105; 854 NW2d 531 (2014) (citation omitted; emphasis in original); see also Const 1963, art 1, § 15. However, "when the Legislature has clearly expressed the intent for multiple punishments, the prohibition against double jeopardy is not violated." Duenaz, 306 Mich. App. at 106. In other words, "the Double Jeopardy Clause acts as a restraint on the prosecutor and the Courts, not the Legislature." People v Mitchell, 456 Mich. 693, 695; 575 NW2d 283 (1998). Thus, when the issue is one of multiple punishments, the proper analysis is to determine whether there is a clear indication of legislative intent to impose multiple punishments for the same offense, and if so, then there is no double-jeopardy violation. Id. at 695-696.

In this instance, defendant was convicted of one count of conducting a criminal enterprise and three counts of

false pretenses. As previously noted, in the fifth amended information, the predicate offenses for the conducting-a-criminal-enterprise charge were five instances of false pretenses. The fact that defendant was punished for conducting a criminal enterprise, when the predicate offenses were obtaining money or property through false pretenses, does not preclude defendant from also being punished separately for any predicate instance of false pretenses. That is because MCL 750.159(13) states, "Criminal penalties under [¶42] this section are not mutually exclusive and do not preclude the application of any other criminal or civil remedy under this section or any other provisions of law." Therefore, because the Legislature has expressly allowed for multiple punishments related to conducting a criminal enterprise, double jeopardy is not violated.

Although not truly a double-jeopardy issue, defendant also argues that because of this Court's prior decision, the issue whether his deeds were "legitimate" could not be relitigated at his new trial. Because he is arguing that the issue of the legitimacy of the deeds could not be relitigated, and because he was not retried on any forgery-related charges, this issue seems to fall under the doctrine of collateral estoppel. "Collateral estoppel precludes relitigation of an issue in a subsequent, different cause of action between the same parties where the prior proceeding culminated in a valid, final judgment and the issue was (1) actually litigated, and (2) necessarily determined." People v Gates, 434 Mich. 146, 154; 452 NW2d 627 (1990). The issue regarding the "legality" of the deeds was actually determined in the prior appeal. Specifically, this Court held that because quitclaim deeds merely convey a grantor's complete [¶43] interest or claim in real property to another, without any warranty that title is valid, the deeds themselves could not be "falsely made," which negated any claim of forgery and uttering and publishing a document. Hardrick, 2017 Mich. App. LEXIS 2087, [slip op.] at 5-6.

But on retrial, none of defendant's charges required a showing that the deeds were "falsely made." Therefore, it is not clear how double jeopardy or collateral estoppel were implicated. Defendant seems to take issue with how the prosecutor argued that the deeds were not "legitimate." Hence, the issue defendant presents appears to be one of prosecutorial misconduct related to the prosecutor's arguments. The test is whether a defendant was denied a fair and impartial trial due to the actions of the prosecutor. People v Rodriguez, 251 Mich. App. 10, 30; 650 NW2d 96 (2002). A prosecutor's comments are to "be read as a whole and evaluated in

light of defense arguments and the relationship they bear to the evidence admitted at trial." *Id.*

Defendant cites the following statements from the prosecutor's rebuttal argument:

One of the things that the Defendant claims is that he keeps saying his deeds are legitimate and the Court of Appeals has overturned it. And you heard the Judge instruct him over and over and over that you've heard no evidence [¶44] of that. Yet he continues to try and ply that. There has been no evidence that his quitclaim deeds are legitimate in any form or fashion other than the fact that he continues to say that, just like he continues to say I'm the owner, I'm the owner.

But this comment was in response to defendant's argument:

I have a legitimate quitclaim deed to the property no matter how I obtained it. It has already been ruled by the Court of Appeals that what I did was legit. This is just a different scenario of how I obtained the properties, how I'm being charged for obtaining the properties and selling them. So, just, you know, take that into consideration or not.

When viewed in context, although the prosecutor said that there was no evidence to show that the deeds were "legitimate," it is apparent that the prosecutor was not contending that the deeds were forged, but rather that they were ineffective to provide defendant with a valid legal interest in the properties. Arguably, the prosecutor could have used more precise words, but her use of "legitimate" mirrored defendant's use of "legitimate" and "legit." Importantly, defendant was not merely arguing that the deeds were not forged instruments—he was [¶45] instead contending that the deeds established that he had some type of valid property interest. It was *this* aspect that the prosecutor was refuting. Because defendant's position was wrong as a matter of law,²⁶ and the prosecutor was trying to refute it, defendant cannot show how this comment denied him

a fair trial. Significantly, the trial court instructed the jury on how quitclaim deeds do not guarantee anything about title and instead merely transfer "whatever interest the grantor may have in the property to another."

As a result, because none of defendant's arguments for this issue has any merit, he is not entitled to any relief.

VI. CONCLUSION

We affirm defendant's convictions, but we remand to the trial court for the ministerial task of amending the judgments of sentence to correct clerical errors. The judgment in LC No. 15-00748-01-FH is to reflect February 7, 2019, as the date of conviction and is to show the sentence for Count 2, which was omitted. The judgment in LC No. 15-008119-01-FH is to reflect the February 7, 2019 conviction date, and is to show the two counts of false pretenses [¶46] as Counts 3 and 4. We do not retain jurisdiction.

/s/ Amy Ronayne Krause

/s/ Michael J. Riordan

/s/ Colleen A. O'Brien

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²⁶ The existence of a quitclaim deed does not necessarily equate to the existence of a property interest. As this Court stated in its prior opinion, "A quitclaim deed is defined as '[a] deed that conveys a grantor's complete interest or claim in certain real property but that neither warrants nor professes that the title is valid.' Thus, the deeds only purported to convey *whatever interest defendant or his company possessed, even if neither possessed any legal interest.*" Hardrick, 2017 Mich. App. LEXIS 2087, [slip op.] at 5 (emphasis added; citation omitted).

²⁵ As noted earlier, although defendant was removed from the courtroom during the prosecutor's rebuttal argument, he was permitted to listen to the arguments over a speaker and the trial court had previously instructed him to raise any objections to any comments at the conclusion of the arguments. He did not do so.

APPENDICE

B

Michigan Supreme Court August 22, 2023 Opinion

APPENDICE

C

Court of Appeals December 19, 2017 opinion

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As of: September 14, 2023 2:43 PM Z

People v. Hardrick

Court of Appeals of Michigan

December 19, 2017, Decided

No. 333568, No. 333898

Reporter

2017 Mich. App. LEXIS 2087 *; 2017 WL 6502769

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v BERNARD ANTOINE HARDRICK, Defendant-Appellant.

Notice: THIS IS AN UNPUBLISHED OPINION. IN ACCORDANCE WITH MICHIGAN COURT OF APPEALS RULES, UNPUBLISHED OPINIONS ARE NOT PRECEDENTIALLY BINDING UNDER THE RULES OF STARE DECISIS.

Subsequent History: Motion granted by, Leave to appeal denied by, Motion denied by *People v. Hardrick*, 502 Mich. 879, 912 N.W.2d 557, 2018 Mich. LEXIS 1143, 2018 WL 3090776 (June 20, 2018)

Motion granted by *People v. Hardrick*, 2019 Mich. App. LEXIS 6960 (Mich. Ct. App., Nov. 7, 2019)

Motion granted by *People v. Hardrick*, 2020 Mich. App. LEXIS 2051 (Mich. Ct. App., Mar. 17, 2020)

Motion granted by *People v. Hardrick*, 2020 Mich. App. LEXIS 6590 (Mich. Ct. App., Oct. 6, 2020)

Decision reached on appeal by, Remanded by *People v. Hardrick*, 2021 Mich. App. LEXIS 3358 (Mich. Ct. App., May 27, 2021)

Prior History: [*1] Wayne Circuit Court. LC No. 15-008119-01-FH. Wayne Circuit Court. LC No. 15-007481-01-FH.

Core Terms

trial court, properties, self-representation, enterprise, deeds, false pretenses, forgery, real property, quitclaim deed, uttering, racketeering, purport, defendant's conviction, criminal enterprise, defendant argues, new trial, sentencing, convict, motion for a new trial, directed verdict, property owner, conducting

Judges: Before: METER, P.J., and SAWYER and SHAPIRO, JJ.

Opinion

PER CURIAM.

In Docket No. 333568, defendant appeals his convictions of forgery of a document affecting real property, *MCL 750.248b*, uttering and publishing a document affecting real property, *MCL 750.249b*, and two counts of using false pretenses to obtain money in an amount of \$1,000 or more, but less than \$20,000, *MCL 750.218(4)(a)*. In Docket No. 333898, defendant appeals his convictions of conducting a criminal enterprise (racketeering), *MCL 750.159i(1)*, eight counts of forgery of a document affecting real property, *MCL 750.248b*, eight counts of uttering and publishing a document affecting real property, *MCL 750.249b*, and using false pretenses to obtain money in an amount of \$1,000 or more, but less than \$20,000 (false pretenses), *MCL 750.218(4)(a)*. The two cases were consolidated for trial. The trial court sentenced defendant as a fourth-offense habitual offender, *MCL 769.12*, to 25 to 45 years' imprisonment for each conviction.

For the reasons discussed below, we reverse defendant's convictions, dismiss the charges of forgery of a document affecting real property and uttering and publishing a document affecting real property, and remand for a new trial on the [*2] charges of conducting a criminal enterprise and false pretenses.

I. FACTS

These cases arise from defendant's act of recording numerous quitclaim deeds on properties in the Detroit area in the summer of 2015. Defendant admitted that he located properties that he believed were abandoned, created quitclaim deeds transferring the properties

either from himself or to one of his companies, Hardrick Investment Group, LLC and Paper Trail Incorporated, or vice versa, and recorded the quitclaim deeds with the Wayne County Register of Deeds. Defendant advertised the properties on Craig list and then attempted to sell several of the properties to several victims, claiming he was the owner. Defendant showed the victims the quit claim deeds he had prepared and filed with the Register of Deeds in order to convince them that he was the owner of the properties. Some of the victims paid defendant down payments on the properties, and defendant either prepared a land contract or a lease with an option to purchase purporting to transfer property interests to the victims. Some of the victims moved into the properties and made substantial improvements in them before discovering that defendant had no interests [*3] in the properties. Defendant worked with a woman named Latonia Fletcher,¹ whom he represented to the victims as being the person that does his paperwork. Defendant was arrested when his parole officer observed several deeds on defendant's kitchen table and, suspecting that defendant was operating a business contrary to the terms and conditions of his parole, reported to the police that defendant was violating his parole.

I. LEGAL ANALYSIS

A. SUFFICIENCY OF THE EVIDENCE

Defendant argues that there was insufficient evidence to support his conviction of conducting a criminal enterprise. Additionally, in his standard 4 brief, defendant argues that there was insufficient evidence to support his convictions for forgery of a document, uttering and publishing a document, and false pretenses.

In reviewing a challenge to the sufficiency of the evidence,² "this Court reviews the evidence in the light most favorable to the prosecution to determine whether any rational trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt." *People v. Robinson*, 475 Mich. 1, 5; 715 NW2d 44 (2006). "[C]ircumstantial evidence and reasonable inferences arising from that evidence can constitute

¹The records indicate that Fletcher pled guilty to one count of forgery of a document affecting real property and one count of false pretenses, in relation to this case.

²We review de novo a challenge to the sufficiency of the evidence. *People v. Meissner*, 294 Mich. App. 438, 452; 812 NW2d 37 (2011).

satisfactory proof of the elements of [*4] a crime." *People v. Lee*, 243 Mich. App. 163, 167-168; 622 NW2d 71 (2000).

There was sufficient evidence to convict defendant of the offense of conducting a criminal enterprise. *MCL 750.159i(1)* provides that "[a] person employed by, or associated with, an enterprise shall not knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity."³ "Enterprise" includes an individual, sole proprietorship, partnership, corporation, limited liability company, trust, union, association, governmental unit, or other legal entity or a group of persons associated in fact although not a legal entity. Enterprise includes illicit as well as licit enterprises." *MCL 750.159i(a)*. Racketeering is defined as "committing, attempting to commit, conspiring to commit, or aiding or abetting, soliciting, coercing, or intimidating a person to commit an offense for financial gain, involving" false pretenses or forgery and counterfeiting. *MCL 750.159g*. Therefore, to find defendant guilty of racketeering, the prosecution must prove beyond reasonable doubt that:

- (1) an enterprise existed, (2) defendant was employed by or associated with the enterprise, (3) defendant knowingly conducted or participated, directly or indirectly, in the affairs of the enterprise, [*5] (4) through a pattern of racketeering activity that consisted of the commission of at least two racketeering offenses that (a) had the same or substantially similar purpose, result, participant, victim, or method of

³*MCL 750.159i(g)* defines "pattern of racketeering activity" as follows:

[N]ot less than 2 incidents of racketeering to which all of the following characteristics apply:

(i) The incidents have the same or a substantially similar purpose, result, participant, victim, or method of commission, or are otherwise interrelated by distinguishing characteristics and are not isolated acts.

(ii) The incidents amount to or pose a threat of continued criminal activity.

(iii) At least 1 of the incidents occurred within this state on or after the effective date of the amendatory act that added this section, and the last of the incidents occurred within 10 years after the commission of any prior incident, excluding any period of imprisonment served by a person engaging in the racketeering activity.

commission, or were otherwise interrelated by distinguishing characteristics and are not isolated acts, (b) amounted to or posed a threat of continued criminal activity, and (c) were committed for financial gain. [*People v Martin*, 271 Mich App 280, 321; 721 NW2d 815 (2006).]

Defendant argues that he was not associated with any enterprise because neither Hardrick Investment Group, LLC, nor Paper Trail Incorporated was a separate and distinct entity from himself, and that Fletcher was not involved in the affairs of any enterprise. Hardrick Investment Group, as a limited liability company, and Paper Trail Incorporated, as a corporation, constituted "enterprises" under the statutory definition. *MCL 750.159f(a)*. There was no evidence, however, that these companies involved anyone other than defendant himself. As this Court stated in *People v Kloosterman*, 296 Mich App 636, 640; 823 NW2d 134 (2012), "defendant, acting alone, cannot be both the person and the enterprise."

Whether defendant's companies constitute separate and distinct entities, however, is not determinative because, contrary to defendant's claim, [*6] there was evidence that defendant worked with Fletcher in listing and selling the properties. There was testimony from the victims that Fletcher filled out the lease with option to purchase agreement, answered phone calls on behalf of defendant, referred to defendant as the owner of the properties, was present when one of the victims looked at a property, and that defendant represented that she did his paperwork. Even if Fletcher was not charged with any racketeering or conspiracy offenses, the jury could reasonably find that she knowingly assisted defendant based on her participation in the sales of the properties, as well as defendant's subsequent letters to her. Given that Fletcher was a separate and distinct individual from defendant, there was sufficient evidence that defendant associated with a criminal enterprise.⁴

We also hold that sufficient evidence was presented to convict defendant of the offense of false pretenses under *MCL 750.218(4)(a)*, involving property valued at \$1,000 or more, but less than \$20,000. The elements of

the crime of larceny by false pretenses over \$100 are:

(1) the defendant must have used a pretense or made a false statement relating to either past or then existing facts [*7] and circumstances, (2) at the time the pretense was used the defendant must have known it to be false, (3) at the time the pretense was used the defendant must have intended to defraud someone, (4) the accuser must have relied on the false pretense made by the defendant, (5) because of this reliance that person must have suffered the loss of some money or other valuable thing, and (6) the property obtained by the defendant must have had a fair market value of over \$100 at the time of the crime. [*People v Lueth*, 253 Mich App 670, 680-681; 660 NW2d 322 (2002).]

Defendant does not dispute that he told the victims that he was the owner of the properties; rather, he denies making false pretenses and claims that he was the owner of the property based on his possessory and financial interests in the properties.

The evidence presented at trial, however, showed that defendant was not the owner of the properties. With regard to the three properties under which defendant was charged for this offense, the previous owners were JP Morgan Bank, M&T Bank, and Bank of America or Linda Greer, respectively, and there were no deeds transferring ownership from these owners to defendant. Consistent with this finding, the Department Executive of the Mortgage and Deed [*8] Fraud Unit for the Register of Deeds testified at trial that she did not discover deeds transferring any of the properties from the previous owners to defendant or his companies. This evidence was sufficient to enable the jury to find that when defendant told the victims that he was the owner, he made a false representation relating to an existing fact. Although defendant claimed he believed he was the owner, the jury could have reasonably found that defendant knew the representations to be false.

However, we find that there was insufficient evidence to support defendant's convictions for forgery under *MCL 750.248b(1)*.⁵ The elements of forgery under *MCL*

⁵ *MCL 750.248b(1)* provides:

A person who falsely makes, alters, forges, or counterfeits a deed, a discharge of mortgage, or a power or letter of attorney or other document that affects an interest in real property with intent to injure or defraud another person [*9] is guilty of a felony punishable by

750.248(1), which proscribes forgery of certain public records, are: "(1) an act which results in the false making or alteration of an instrument (which makes an instrument appear to be what it is not); and (2) a concurrent intent to defraud or injure. The key is that the writing itself is a lie." *People v Johnson-El*, 299 Mich App 648, 651; 831 NW2d 478 (2013) (quotation marks and citations omitted).

Defendant disputes only the first element and argues that the quitclaim deeds were not falsely made. Specifically, defendant contends that the quit claim deeds were not a lie because they did not purport to be something they were not; rather, they were exactly what they purported to be—a conveyance of whatever interest defendant had in the properties from defendant to one of his companies or vice versa. We agree.

In *People v Susalla*, 392 Mich 387, 390; 220 NW2d 405 (1974), our Supreme Court held that "forgery includes any act which fraudulently makes an instrument purport to be what it is not." Here, the quit claim deeds, prepared by defendant, did not purport to be anything other than quitclaim deeds conveying whatever interest defendant had in the property to his company or vice versa. A quitclaim deed is defined as "[a] deed that conveys a grantor's complete interest or claim in certain real property but that neither warrants nor professes that the title is valid." *Black's Law Dictionary* (10th ed). Thus, the deeds only purported to convey whatever interest defendant or his company possessed, even if neither possessed any legal interest. Accordingly, the quitclaim [*10] deeds were not falsely made, and there was insufficient evidence to support defendant's convictions of forgery of a document affecting real property.

For the same reasons, we conclude that insufficient evidence was presented to convict defendant of uttering and publishing a document under *MCL 750.249b(1)*.⁶ The elements of the crime of uttering and publishing a forged instrument under *MCL 750.249* are: "(1) knowledge on the part of the accused that the instrument was false; (2) an intent to defraud; and (3)

imprisonment for not more than 14 years.

⁶ *MCL 750.249b(1)* provides as follows:

A person who utters and publishes as true a false, forged, altered, or counterfeit deed or other document listed in *Section 248b* knowing it to be false, forged, altered, or counterfeit with intent to injure or defraud is guilty of a felony punishable by imprisonment for not more than 14 years.

presentation of the forged instrument for payment." *Johnson-El*, 299 Mich App at 652 (citations and quotations marks omitted). To "utter and publish a forged instrument is to declare or assert, directly or indirectly, by words or actions, that an instrument is good." *Id.* In the instant case, the prosecution failed to establish that the quitclaim deeds were false because they did not purport to be anything other than quitclaim deeds, transferring whatever interest defendant had in the properties from defendant to his company or vice versa.

B. RIGHT TO SELF-REPRESENTATION

Defendant next argues that the trial court erred by denying his pretrial request for self-representation, and that this error requires reversal of his convictions even though [*11] the court later granted his mid-trial request for self-representation. We agree.⁷

"The right of self-representation is secured by both the Michigan Constitution, *Const 1963, art 1, § 13*, and by statute, *MCL 763.1* . . . [and] is also implicitly guaranteed by the *Sixth Amendment of the United States Constitution*." *People v Dunigan*, 299 Mich App 579, 587; 831 NW2d 243 (2013). "Proper compliance with the waiver of counsel procedures . . . is a necessary antecedent to a judicial grant of the right to proceed in propria persona. Proper compliance requires that the court engage, on the record, in a methodical assessment of the wisdom of self-representation by the defendant." *People v Hicks*, 259 Mich App 518, 523; 675 NW2d 599 (2003) (internal quotation marks and citation omitted). Before granting a defendant's request for waiver of the right to counsel, a trial court must make findings as to three requirements:

First, the request must be unequivocal. . . . Second, once the defendant has unequivocally declared his desire to proceed Pro se, the trial court must determine whether defendant is asserting his right knowingly, intelligently[,] and voluntarily. The trial court must make the Pro se defendant aware of the dangers and disadvantages of self-representation, so that the record will establish that he knows what

⁴ Defendant does not expressly dispute that he and Fletcher associated on at least two racketeering offenses. Based on the testimony of two of the victims, there was evidence that defendant and Fletcher associated on two racketeering offenses, i.e., false pretenses. The conducting a criminal enterprise count included false pretenses regarding two of the properties at issue in this case.

⁷ "This Court reviews de novo whether a defendant waived his *Sixth Amendment* right to counsel, but reviews for clear error any factual findings underlying the trial court's decision. This Court also reviews de novo whether the trial court properly interpreted and applied the relevant statutes and court rules." *People v Campbell*, 316 Mich App 279, 283; 894 NW2d 72 (2016) (citations omitted).

he is doing and his choice is made with eyes open. . . . Third and the final [*12] requirement is that the trial judge determine that the defendant's acting of his own counsel will not disrupt, unduly inconvenience and burden the court and the administration of the court's business. [*People v Anderson*, 398 Mich 361, 367-368; 247 NW2d 857 (1976).]

Further, MCR 6.005 provides as follows:

(D) If the court determines that the defendant is financially unable to retain a lawyer, it must promptly appoint a lawyer and promptly notify the lawyer of the appointment. The court may not permit the defendant to make an initial waiver of the right to be represented by a lawyer without first:

- (1) advising the defendant of the charge, the maximum possible prison sentence for the offense, any mandatory minimum sentence required by law, and the risk involved in self-representation, and
- (2) offering the defendant the opportunity to consult with a retained lawyer or, if the defendant is indigent, the opportunity to consult with an appointed lawyer.

A trial court must substantially comply with the above requirements in order for the defendant to validly waive the right to counsel. *People v Willing*, 267 Mich App 208, 220; 704 NW2d 472 (2005). "[A] request for self-representation can only be denied for three reasons: (1) if it is untimely, ordinarily if made after trial has begun, (2) if there is sufficient certainty of [*13] serious obstructionist misconduct, or (3) if no valid waiver can be accomplished." *People v Richards*, 315 Mich App 564, 575; 891 NW2d 911 (2016).

The trial court did not substantially comply with the requirements of MCR 6.005(D) and *Anderson* before denying defendant's initial request to represent himself. The court did not discuss the requirements of the court rules or *Anderson* with defendant; rather, it invoked defendant's lack of legal knowledge as a ground for denying his request for self-representation. "[T]he defendant's technical legal knowledge is not relevant to the determination" of a knowing exercise of the right to self-representation." *Indiana v Edwards*, 554 U.S. 164, 172; 128 S.Ct 2379; 171 L.Ed 2d 345 (2008). Thus, the trial court improperly denied defendant the right to self-representation on the basis of defendant's inability to show familiarity with criminal procedure and criminal law. The trial court's error constitutes a structural error requiring reversal. *People v Anderson (After Remand)*, 446 Mich 392, 405; 521 NW2d 538 (1994). Although the trial subsequently granted defendant's request for self-

representation on the third day of trial, this did not remedy the error.

We also agree with defendant's argument that the denial of his request for self-representation prevented him from representing himself during jury selection. Our Supreme Court has recognized that "a defendant's right [*14] to self-representation encompasses certain specific core rights, including the right to be heard, to control the organization and content of his own defense, to make motions, to argue points of law, to participate in voir dire, to question witnesses, and to address the court and the jury at times." *People v Arthur*, 495 Mich 861, 862; 836 NW2d 694 (2013), citing *McKaskle v Wiggins*, 465 U.S. 168, 174; 104 S.Ct 944; 79 L.Ed 2d 122 (1984).

Because the erroneous initial denial of defendant's request for self-representation prevented defendant from representing himself during voir dire and the questioning three witnesses, we reverse defendant's convictions and remand for a new trial.

C. SCORING OF OFFENSE VARIABLE 9

Defendant argues that the trial court erred by assessing 25 points for offense variable (OV) 9 of the sentencing guidelines. Because we are reversing defendant's convictions and remanding for a new trial, it is unnecessary to address this sentencing issue.

III. STANDARD 4 BRIEF

A. MOTION FOR A NEW TRIAL OR DIRECTED VERDICT

In addition to his sufficiency of evidence arguments, defendant also argues that the trial court abused its discretion by refusing to rule on his motion for a new trial or directed verdict. We disagree.⁸

Defendant filed a motion for a new trial or directed

⁸ "A trial court's decision on a motion for new trial is reviewed for an abuse of discretion, which occurs when the trial court renders a decision falling outside the range of principled decisions." *People v Dimambro*, 318 Mich App 204, 212; 897 NW2d 233 (2016) (citations and quotations marks omitted). This Court reviews a trial court's decision on a motion for a directed verdict de novo "to determine whether the evidence presented by the prosecutor, viewed in the light most favorable to the prosecutor, could persuade a rational trier of fact that the essential elements of the crime charged were proved beyond a reasonable doubt." *People v Aldrich*, 246 Mich App 101, 122; 631 NW2d 67 (2001).

verdict under MCR 6.419 and MCR 6.431. "Pursuant to MCR 6.431(B) [*15], [a] trial court may grant a new trial to a criminal defendant on the basis of any ground that would support reversal on appeal or because it believes that the verdict has resulted in a miscarriage of justice." *People v Dimambro*, 318 Mich App 204, 212; 897 NW2d 233 (2016) (citation and quotation marks omitted; alteration in original). "A motion for a new trial may be filed before the filing of a timely claim of appeal." MCR 6.431(A)(1). "After a jury verdict, the defendant may file an original or renewed motion for directed verdict of acquittal in the same manner as provided by MCR 6.431(A) for filing a motion for a new trial." MCR 6.419(C).

Defendant's motion for a new trial or directed verdict was filed on May 5, 2016, but the trial court refused to consider the motion at the sentencing hearing, stating that it was untimely. Defendant, however, did not file his claim of appeal until June 23, 2016. Therefore, the motion was timely filed. See MCR 6.431(A)(1); MCR 6.419(C). Nonetheless, there is no indication that defendant ever noticed the motion to be heard on May 5, 2016. At the hearing on that date, the trial court and the prosecutor stated that they had only received the motion that morning. MCR 2.119(E)(1) provides that "[c]ontested motions should be noticed for hearing at the time designated by the court for the hearing of motions."⁹ Thus, the trial court did not abuse its discretion by refusing to consider the motion that day. There is no evidence that defendant ever subsequently noticed the motion for a hearing. Therefore, the trial court did not abuse its discretion by failing to consider it.

B. SUBJECT-MATTER JURISDICTION

Finally, defendant argues that the trial court lacked jurisdiction over the subject matter of this case. We disagree.¹⁰

"Michigan circuit courts are courts of general jurisdiction and unquestionably have jurisdiction over felony cases." [*16] *People v Lown*, 488 Mich 242, 268; 794

⁹ The rules of civil procedure apply to criminal cases unless "otherwise provided by rule or statute," "when it clearly appears that they apply to civil actions only," or "when a statute or court rule provides a like or different procedure." MCR 6.001(D)(1)-(3).

¹⁰ This Court reviews de novo questions of law, such as whether a court has subject-matter jurisdiction. *People v Laws*, 218 Mich App 447, 451; 554 NW2d 586 (1996).

NW2d 9 (2011). The trial court had subject-matter jurisdiction over defendant's case because his charges were felonies. See MCL 750.159(1) (prescribing the penalties for a violation of MCL 750.159); MCL 750.248b(1); MCL 750.249b(1); MCL 750.218(4)(a). Defendant argues that the subject matter was whether he had any ownership interest in the properties, and the question of ownership was a civil matter, which neither the trial court nor the jury had jurisdiction to decide. It was necessary for the jury to determine, however, whether defendant owned the properties in order to determine whether the elements of the charged crimes were proved beyond a reasonable doubt. Therefore, we reject this claim of error.

Accordingly, we reverse defendant's convictions, dismiss the charges of forgery of a document affecting real property and uttering and publishing a document affecting real property, and remand for a new trial on the charges of conducting a criminal enterprise and using false pretenses to obtain money in an amount of \$1,000 or more, but less than \$20,000. We do not retain jurisdiction.

/s/ Patrick M. Meter

/s/ David H. Sawyer

/s/ Douglas B. Shapiro

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APPENDICE

D

Excerpts of Petitioner's Appellant Brief And Standard-4 Brief

Table of Contents

Index of Authorities.....	i
Statement of Jurisdiction	iii
Statement of Questions Presented	iv
Statement of Facts	1
Arguments.....	16
I. The trial court violated Mr. Hardrick's right to be present, right to counsel, and right to self-representation where it improperly excluded Mr. Hardrick from the trial during closing argument when he was representing himself and then failed to give the jury a curative instruction regarding his exclusion.	16
II. The trial court erred when it failed to instruct the jury on claim of right and adverse possession where Mr. Hardrick testified he believed he had a claim of right to the properties and had legitimately obtained them through adverse possession. Additionally, the trial court's failure to properly instruct the jury violated Mr. Hardrick's constitutional right to present a defense.	23
III. This Court should remand Mr. Hardrick's case to the trial court for ministerial correction of both judgment of sentences where the date of conviction is incorrect.	27
Summary and Relief.....	29

State Of Michigan
In The Court Of Appeals

People of The State Of Michigan,
Plaintiff, Appellee

v.

Bernard Hardrick,
Defendant,
Appellate

Docket No(s)

348347, 348350

Low Ct. No(s)

15-007481-01-FH

15-008119-01-FH

Appellant's Standard-4 Brief
Oral Argument Requested

By: 
Bernard Hardrick

ARGUMENT I.

The Defendant's Right To Fair Notice Was Violated Where, After Being Remanded For A New Trial Under Both Case Numbers 15-007481-01-FH And 15-008119-01-FH, The Prosecution Neglected To File, And Serve, An Information Pertaining To Case Number 15-008119-01-FH. Additionally, The Defendant's Right To Due Process Under The Fourteenth Amendment Was Violated Where He Was Convicted On Charges Not Filed On A Felony Information In Relations To Case Number 15-008119-01-FH; And Convicted On Complainants Not Charged In Case Number 15-007481-01-FH

Standard Of Review:

Constitutional claims are reviewed denovo, as are issues of statutory interpretation. *People v. Dendel*, 481 Mich. 114, 124; 748 NW2d 859 (2008).

"The Due Process Clause of the Fourteenth Amendment mandates that a State's method for charging a crime give a defendant 'fair notice' of the charge against the defendant, to permit the defendant to adequately prepare a defense." *People v. Chappo*, 283 Mich. App. 360, 364; 770 NW2d 68 (2009); See *Chambers v. Mississippi*, 410 US 284.

A conviction on one ground may not be sustained on grounds that might have been charged but were not. "It is as much a violation of Due Process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made." *Cole v. Arkansas*, 333 US 196.

Discussion:

On 8-10-18, After this Court remanded both case numbers 15-007481-01-FH and 15-008119-01-FH for a new trial, the trial court held a preliminary proceeding where the Prosecutor filed, and served the Defendant, a "Fourth Amended" Information pertaining to Case number 15-007481-01-FH. The information charged Defendant with: Count 1 - Conducting Criminal Enterprise for False Pretense on (18300 Glastenbury, Detroit), False Pretense on (12661 Fordline, Southgate), and False Pretenses on (10065 West Outer Drive), (see Fourth Amended Information attached as Exhibit 1)

ARGUMENT III

The Evidence Was Insufficient To Support The Conviction of Criminal Enterprise For False Pretenses In Case Number 15-007481-01-FH Where : (1) The Court of Appeals Had Vacated All Counts Of Forgery Of A Document Which Was The Original Predicate Offense Of The Criminal Enterprise; (2) The People Failed To Produce Any Evidence To Support The Charged Offenses Against Redford Township Whose The Only Complainant/Victim Charged In The Information; (3) The Defendant Held A Legal Claim In The Properties He Rented; (4) The Trial Court Only Entered For One Count Of False Pretenses For The Criminal Enterprise In Case Number 15-007481-01-FH.

Standard Of Review:

This Court reviews *de novo* a sufficiency of the evidence challenged. (People v. Harrison, 283 Mich. App. 374, 377; 768 N.W.2d 98 (2009), "Due Process requires that, to sustain a conviction, the evidence must show guilt beyond a reasonable doubt." (People v. Harversen, 291 Mich. App. 171, 175; 804 N.W.2d 757; US Const, AMS V, XIV; Const. 1963, Art 1, §17. A claim of insufficient evidence to support a verdict may be brought on direct appeal even where no motion for directed verdict was made at trial. (People v. Patterson, 248 Mich. 502, 505 (1987).

Discussion:

Note: The Defendant has been ~~clearly~~ denied access to the law library here at Marquette Branch Prison levels rendering him completely handicapped from being able to cite any decent case law. The Defendant has sent multiple law library request kites in for material, which is only provided once a week, and still has not received any of the requested documentation. Due to the remaining time left before his deadline the Defendant has no choice but to put forth his best effort to complete this Standard 4 Brief and therefore is depending on this Court to know its own laws.

- 1.) As shown in the original information in Appendix-B, the Defendant was charged in count 1 with Criminal enterprise for ten counts of Forgery of A Document (the predicate offense) and one count of False pretenses.

APPENDICE

E

Original Information of Charges For Case 15-007481-01-FH

Exhibit

2015716846

STATE OF MICHIGAN

CASE NO: 2015716846

INFORMATION
FELONY

17TH DISTRICT COURT
3rd Judicial Circuit

The People of the State of Michigan

vs

BERNARD ANTOINE HARDRICK 82-15716846-01

Offense Information

Police Agency / Report No.

82RT 15-5179

Date of Offense

06/16/2015 DH

Place of Offense

17621 FIVE POINTS, REDFORD TOWNSHIP

Complainant or Victim

TOWNSHIP OF REDFORD

Complaining Witness

WILLIAM HAND

STATE OF MICHIGAN, COUNTY OF Wayne

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: The prosecuting attorney for this county appears before the court and informs the court that on the date and at the location described above, the Defendant(s):

COUNT 1: CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: KIMBERLY SEABORN AND/OR TONIA FLETCHER AND/OR PAPER TRAIL INCORPORATED AND/OR HARDRICK INVESTMENT GROUP, LLC, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (17621 FIVE POINTS), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY, MCL 750.248b;

and on or about 6/19/2015 to 7/13/2015, in REDFORD, MI (13501 WOODBINE), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (12963 WOODBINE), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (13591 LENORE), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (18300 GLASTONBURY), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY, MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (18300 GLASTONBURY), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (20274 BURGESS), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in ALLEN PARK, MI (14755 MORAN), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (13510 APPLETON), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in SOUTHGATE, MI (12661 FORDLINE), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (10065 WEST OUTER DRIVE), defendant did commit AND/OR attempt to commit AND/OR AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

which had the same or a substantially similar purpose, or result, or participant, or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

CRIMINAL ENTERPRISES - NOTICE OF INTENT TO FORFEIT PROPERTY

Pursuant to MCL 750.159j(5), the following property was used in the course of, intended for use in the course of, derived from or realized through the racketeering conduct alleged herein, and upon conviction under MCL 750.159i, is subject to criminal forfeiture: 1) ANY AND ALL PROCEEDS AND SUBSTITUTED PROCEEDS FROM THE CRIMES COMMITTED BY THE DEFENDANT(S). 2) ANY AND ALL INSTRUMENTALITIES AND/OR EQUIPMENT AND/OR VEHICLES AND/OR COMPUTER RELATED EQUIPMENT AND/OR REAL PROPERTY.

COUNT 2: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 20274 BURGESS, DETROIT, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1391. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 3: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 20274 BURGESS, DETROIT, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1391. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 4: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 20274 BURGESS, DETROIT, MI

did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]

FELONY: 3 Years and/or \$5,000.00

COUNT 5: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 13591 LENORE, REDFORD, MI

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52327; PAGE 203. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 6: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 13591 LENORE, REDFORD, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed, or deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52327; PAGE 203. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 7: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 13591 LENORE, REDFORD, MI

did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]

FELONY: 3 Years and/or \$5,000.00

COUNT 8: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 17621 FIVE POINTES, REDFORD, MI

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1389. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 9: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 17621 FIVE POINTS, REDFORD, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1389. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 10: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 17621 FIVE POINTS, REDFORD, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 11: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 13510 APPLETON, DETROIT, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 477. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 12: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 13510 APPLETON, DETROIT, MI
did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 477. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 13: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 13510 APPLETON, DETROIT, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 14: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 13501 WOODBINE, REDFORD, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 479. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 15: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 13501 WOODBINE, REDFORD, MI
did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 479. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 16: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 13501 WOODBINE, REDFORD, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 17: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 12963 WOODBINE, REDFORD, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 478. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 18: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 12963 WOODBINE, REDFORD, MI
did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52333; PAGE 478. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 19: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 12963 WOODBINE, REDFORD, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the

grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 20: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 14577 MORAN, ALLEN PARK, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52326; PAGE 238. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 21: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 14577 MORAN, ALLEN PARK
did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52326; PAGE 238. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 22: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 14577 MORAN, ALLEN PARK, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 23: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 18300 GLASTONBURY, DETROIT, MI
did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52319; PAGE 411. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 24: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 18300 GLASTONBURY, DETROIT, MI
did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52319; PAGE 411. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 25: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 18300 GLASTONBURY, DETROIT, MI
did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 26: FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00
did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]
FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 132 S. Ct. 2344 (2012)

HABITUAL OFFENDER - FOURTH OFFENSE NOTICE

Take notice that the defendant was previously convicted of three or more felonies or attempts to commit felonies in that on or about 11/16/2005, he or she was convicted of the offense of ROBBERY ARMED in violation of 750.529; in the 3RD CIRCUIT Court for WAYNE COUNTY, State of MICHIGAN;

And on or about 11/16/2005, he or she was convicted of the offense of CARJACKING in violation of 750.529A; in the 3RD CIRCUIT Court for WAYNE COUNTY, State of MICHIGAN;

And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;

And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;

And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;

Therefore, defendant is subject to the penalties provided by MCL 769.12. [769.12]

PENALTY: Life if primary offense has penalty of 5 Years or more; 15 Years or less if primary offense has penalty under 5 Years. The maximum penalty cannot be less than the maximum term for a first conviction.

Upon conviction of a felony or an attempted felony court shall order law enforcement to collect DNA identification profiling samples.

and against the peace and dignity of the State of Michigan.

Kym Worthy
P38875
Prosecuting Attorney

08/20/2015

Date

By: _____

Bar Number

APPENDICE

F

Original Information of Charges For Case 15-008119-01-FH

STATE OF MICHIGAN

CASE NO: 2015717294

INFORMATION
FELONY36TH DISTRICT COURT DETROIT
3rd Judicial Circuit

The People of the State of Michigan

vs

BERNARD ANTOINE HARDRICK 82-15717294-01
LATONIA DOMINIQUE FLETCHER 82-15717294-02

Offense Information

Police Agency / Report No.

82WCS 12820-15

Date of Offense

6/24/2015 - 8/25/2015 wd

Place of Offense

400 Monroe Street, DETROIT

Complainant or Victim

DANIEL WATSON BANK OF AMERICA

Complaining Witness

DEP. D. FARRIS

STATE OF MICHIGAN, COUNTY OF Wayne

IN THE NAME OF THE PEOPLE OF THE STATE OF MICHIGAN: The prosecuting attorney for this county appears before the court and informs the court that on the date and at the location described above, the Defendant(s):

COUNT 1 DEFENDANT(S) (01, 02): FORGERY OF DOCUMENT AFFECTING REAL PROPERTY

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud; contrary to MCL 750.248b. [750.248B]

This document was recorded with the Wayne County Register of Deeds at Liber 52310; Page 693. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 2 DEFENDANT(S) (01, 02): UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY

did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit; contrary to MCL 750.249b. [750.249B]

This document was recorded with the Wayne County Register of Deeds at Liber 52310; Page 693. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 3 DEFENDANT(S) (01, 02): REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE

did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]

FELONY: 3 Years and/or \$5,000.00

COUNT 4 DEFENDANT(S) (01, 02): FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00

did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]

FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 132 S. Ct. 2344 (2012)

COUNT 5 DEFENDANT(S) (01, 02): FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00

did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]

FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 132 S. Ct. 2344 (2012)

APPENDICE

G

Fifth Amended Information For Case 15-007481-01-FH

STATE OF MICHIGAN

FIFTH AMENDED
INFORMATION
FELONY

2015716846
CASE NO: 8215007481

17TH DISTRICT COURT
3RD JUDICIAL CIRCUIT

The People of the State of Michigan

vs

BERNARD ANTOINE HARDRICK 82-15716846-01

Offense Information

Police Agency / Report No.

REDFORD TWP PD 15-5179

Date of Offense

6/16/15-7/13/15 DH

Place of Offense

VARIOUS ADDRESSES IN WAYNE WAYNE COUNTY

Complainant or Victim

TOWNSHIP OF REDFORD

Complaining Witness

WILLIAM HAND

RECEIVED
JUN -3 AM 11:16
COURT OF APPEALS
LANSING OFFICE

RETURNED
JUN 10 2015
COURT OF APPEALS
FIRST DISTRICT

STATE OF MICHIGAN, COUNTY OF Wayne

In the name of the People of the State of Michigan: The Prosecuting Attorney for this court appears before the Court and informs the Court that on the date and at the location above described, the Defendant(s)

COUNT 1: CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: KIMBERLY SEABORN AND/OR TONIA FLETCHER AND/OR PAPER TRAIL INCORPORATED AND/OR HARDRICK INVESTMENT GROUP, LLC, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (13591 LENORE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (18300 GLASTONBURY), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (3290 SHERBOURNE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in SOUTHGATE, MI (12661 FORDLINE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (10065 WEST OUTER DRIVE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

which had the same or a substantially similar purpose, or result, or participant, or method of commission, and which amount to or pose a threat of continued criminal activity; contrary to MCL 750.159i(1). [750.159i1]

FELONY: 20 Years and/or \$100,000.00; criminal forfeiture of proceeds, substituted proceeds, and instrumentalities of racketeering listed on attached notification (see MCL 750.159j(4)); court may order court costs, costs of investigation, and/or costs of prosecution

CRIMINAL ENTERPRISES - NOTICE OF INTENT TO FORFEIT PROPERTY

Pursuant to MCL 750.159j(5), the following property was used in the course of, intended for use in the course of, derived from or realized through the racketeering conduct alleged herein, and upon conviction under MCL 750.159i, is subject to criminal forfeiture: 1) ANY AND ALL PROCEEDS AND SUBSTITUTED PROCEEDS FROM THE CRIMES COMMITTED BY THE DEFENDANT(S). 2) ANY AND ALL INSTRUMENTALITIES AND/OR EQUIPMENT AND/OR VEHICLES AND/OR COMPUTER RELATED EQUIPMENT AND/OR REAL PROPERTY.

RECEIVED
JUN -5
COURT OF APPEALS
DETROIT

APPENDICE

H

Verdict Forms

VERDICT FORM

PAGE 1 OF 4

DEFENDANT: BERNARD ANTOINE HARDRICK
CASE NO.: 15-007481-01-FH/ 15-008119-01-FH

COUNT 1:

**CRIMINAL ENTERPRISES – CONDUCTING
LENORE, GLASTONBURY, SHERBOURNE, FORDLINE, WEST
OUTER DRIVE STREETS.**

YOU MAY RETURN ONLY ONE VERDICT ON THIS CHARGE.
MARK ONLY ONE BOX ON THIS SHEET.

☐ NOT GUILTY

☐ GUILTY

DATED: _____

FOREPERSON

VERDICT FORM

PAGE 2 OF 4

DEFENDANT: BERNARD ANTOINE HARDRICK

CASE NO.: 15-007481-01-FH / 15-008119-01-FH

COUNT 2:

FALSE PRETENSES – 18300 GLASTONBURY

COMPLAINANTS: Tamika Williams and Dexter Dotsey

YOU MAY RETURN ONLY ONE VERDICT ON THIS CHARGE.

MARK ONLY ONE BOX ON THIS SHEET.

☐ NOT GUILTY

☐ GUILTY

DATED _____

FOREPERSON

VERDICT FORM

PAGE 3 OF 4

DEFENDANT: BERNARD ANTOINE HARDRICK
CASE NO.: 15-007481-01-FH / 15-008119-01-FH

COUNT 3:
FALSE PRETENSES – 3290 SHERBOURNE
COMPLAINANTS: Daniel Watson

YOU MAY RETURN ONLY ONE VERDICT ON THIS CHARGE.
MARK ONLY ONE BOX ON THIS SHEET.

☐ NOT GUILTY

☐ GUILTY

DATED _____

FOREPERSON

VERDICT FORM

PAGE 4 OF 4

DEFENDANT: BERNARD ANTOINE HARDRICK
CASE NO.: 15-007481-01-FH / 15-008119-01-FH

COUNT 4:
FALSE PRETENSES – 13591 LENORE
COMPLAINANTS: Felicia Conada Harris

YOU MAY RETURN ONLY ONE VERDICT ON THIS CHARGE.
MARK ONLY ONE BOX ON THIS SHEET.

☐ NOT GUILTY

☐ GUILTY

DATED _____

FOREPERSON

APPENDICE

I

Judgment of Sentence For Case 15-007481-01-FH

Approved, SCAO Original - Court

Original Court
1st copy- Corrections
2nd copy- Corrections (for return)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 <input type="checkbox"/> Amended	CASE NO. 15-007481-01-FH
--	---	---

ORI MI - 821095J Court Address 1441 St. Antoine, Detroit, MI 48226 Courtroom 801 Court Telephone No. 313-224-2120
Police Report No.

THE PEOPLE OF THE STATE OF MICHIGAN	
Prosecuting attorney name Latoya M. Willis	Bar no. 64900

v

Defendant name, address, and telephone no. Bernard Antoine Hardrick Alias(es) - 22458 Barbara Detroit, MI 48223		
CTN/TCN 15716846-01	SID	DOB 10/06/1987
Defendant attorney name Melonie K. Bates		Bar no. 76080

THE COURT FINDS:

1. The defendant was found guilty on 03/23/2016

of the crime(s) stated below:

Count	CONVICTED BY			DISMISSED BY*	CRIME	CHARGE CODE (S) MCL citation/PACC Code
	Pleas*	Court	Jury			
CT. 1			G		CRIMINAL ENTERPRISE - CONDUCTING (HAB 4 TH)	750.15911
CT. 2			G		FALSE PRETENSE 1000 OR < BUT > 20,000 (HAB 4 TH)	750.2184A4

*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).☐ 3. HIV testing and sex offender registration are completed.

Defendant's driver license number

☐ 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	
CTS. 1 & 2	03-06-2019	20	----	----	35	----	----	03-06-2019	----	1048	

☐ 9. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)☐ each other.☒ case numbers 15-008119-01-FH

10. The Defendant shall pay:

State Minimum	Crime Victim	Restitution	DNA Assess.	Court Costs	Attorney Fees	Fine	Other Costs	Total
\$ 68.00 x 2	\$ 130.00	\$ TBD	\$----	\$ 1300.00	\$ ----	\$ ----	\$ ----	\$ 1566

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:

03-06-2019

Date

Judge

Dalton Robinson

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)

Deputy Court clerk

APPENDICE

J

Judgment of Sentence For Case 15-008119-01-FH

STATE OF MICHIGAN THIRD JUDICIAL CIRCUIT WAYNE COUNTY	JUDGMENT OF SENTENCE COMMITMENT TO DEPARTMENT OF CORRECTIONS <input type="checkbox"/> Amended	CASE NO. 15-008119-01-FH
--	---	-------------------------------------

ORI MI - 821095J Court Address 1441 St. Antoine, Detroit, MI 48226 Courtroom 801 Court Telephone No. 313-224-2120
Police Report No.

THE PEOPLE OF THE STATE OF MICHIGAN	
Prosecuting attorney name Latoya M. Willis	Bar no. 64900

Defendant name, address, and telephone no. Bernard Antoine Hardrick Alias(es) - 22458 Barbara St Detroit, MI 48223		
CTN/TCN 15717294-01	SID	DOB 10/06/1987
Defendant attorney name Melonie K. Bates		Bar no. 76080

THE COURT FINDS:

1. The defendant was found guilty on 03/23/2016 of the crime(s) stated below:

Count	CONVICTED BY			DISMISSED BY*	CRIME	CHARGE CODE (S) MCL citation/PACC Code
	Pleas*	Court	Jury			
CT. 3			G		FALSE PRETENSE 1000 OR < BUT > 20,000 (HAB 4 TH)	750.2184A4
CT. 4			G		FALSE PRETENSE 1000 OR < BUT > 20,000 (HAB 4 TH)	750.2184A4

*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-H636085067770
☐ 3. HIV testing and sex offender registration are completed. Defendant's driver license number
☐ 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	
CTS. 3 & 4	03-06-2019	20	----	----	35	----	----	03-06-2019	----	1048	

- ☐ 9. Sentence(s) to be served consecutively to: (if this item is not checked, the sentence is concurrent)
☒ each other. ☒ case numbers 15-007481-01-FH

10. The Defendant shall pay:

State Minimum	Crime Victim	Restitution	DNA Assess.	Court Costs	Attorney Fees	Fine	Other Costs	Total
\$ 68.00 x 2	\$ 130.00	\$ TBD	\$----	\$ 1300.00	\$ ----	\$ ----	\$ ----	\$ 1566

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:

03-06-2019

Date

Judge

Dalton Roberson

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)

Deputy court clerk

APPENDICE

K

Court Letter

(Indicating that no "sixth" Amended Information exist on record)



THIRD JUDICIAL CIRCUIT
OF MICHIGAN

DARNELLA D. WILLIAMS-CLAYBOURNE
CIRCUIT COURT JUDGE

503 FRANK MURPHY HALL OF JUSTICE
1441 ST. ANTOINE STREET
DETROIT, MICHIGAN 48226

(313) 224-5246

June 16, 2021

Bernard Hardrick # 606507
Chippewa Correctional Facility
4269 W. M-80
Kincheloe, MI 49784

Re: *Case # 15-007481-01-FH & 15-008119-01-FH*

Dear Mr. Hardrick,

The Court has received your motion for court documents. Please find the requested documents attached. The Court does not see a "sixth" amended information based upon the ROA as your motion alleges. Should you have the date that the information was filed, the Court will re-review your request at that time.

Respectfully,

A handwritten signature in dark ink, appearing to be "JM" or similar initials, written over a horizontal line.

TM

Judicial Assistant to the
Hon. Darnella Williams-Claybourne

APPENDICE

L

Excerpts of Petitioner's 'Leave To Appeal'

State of Michigan
In The Supreme Court

People of The State of Michigan,
Plaintiff-Appellee,

v.

Bernard Hardrick,
Defendant-Appellant.

Wayne County Prosecutor's Office
Attorney For Plaintiff-Appellee
1441 St. Antoine
Detroit, MI 48226

LC# # 15-007481-01-FH;
15-008119-01-FH
C.O.A. #s 348347; 348350
SC# #s _____

Bernard Hardrick
Pro Se
Marquette Branch Prison
1960 US HWY 41 South
Marquette, MI 49855

Defendant-Appellant's Application For Leave To Appeal

ARGUMENTS

- I. The Trial Court Violated Mr. Hardrick's Right To Be Present, Right To Counsel, and Right To Self-Representation Where It Improperly Excluded Mr. Hardrick From The Trial During Closing Argument When He Was Representing Himself And Then Failed To Give The Jury A Curative Instruction Regarding His Exclusion.

Standard of Review:

Constitutional claims are reviewed de novo, as are issues of statutory interpretation. *People v. Dendel*, 481 Mich 114, 124; 748 N.W.2d 859 (2008).

A structural error is a "fundamental constitutional" error that defies analysis by "harmless error" standards. *Neder v. United States*, 327 US 1, 7; 119 S.Ct. 1827; 144 L.Ed.2d 35 (1999).

Issue Preservation:

The Defendant preserved the issue of his right to be present and his right to self-representation being violation in his Motion For New Trial that was filed in the trial court on 2/25/19 (see Motion For New Trial, pgs 16-17 attached as Exhibit 5) though the trial court, to this day, refuses to address the motion.

The Defendant also preserved this claim for appellate review by raising it on direct appeal.

Grounds For Granting Leave To Appeal:

This Court should grant leave to appeal because the Court of Appeals failed to properly analyze the issue on its merits as a whole by avoiding the self-representation component in the claim and erred in its opinion that the trial court's removal of the defendant during his trial was "harmless" and unreasonably applied the constitutional rule announced in *Illinois v. Allen*, 397 US 337 which prejudiced the outcome of the Defendant's appeal.

The decision of the Court of Appeals is clearly erroneous under the US Supreme Court precedence, as set forth in *Illinois v. Allen*, 397 US 337, *Gideon v. Wainwright*, 372 US 335 (complete denial of counsel), and *McKaskle v. Wiggins*, 465 US 168 (denial of self-representation) and will result in material injustice as shown below. MCR 7.305

Furthermore, the Court of Appeals opinion that Defendant's "standby" counsel assumed the role of primary counsel was erroneous and contradicted its own published opinion in *People v. Willing*, 267 Mich App 208 (2005), where the Court of Appeals held that "standby counsel" is not considered to be "full-fledged" counsel under the Sixth Amendment because standby counsel does not bear the responsibility for the defense. The issue of whether "standby counsel" constitutes as primary counsel appears not to have been addressed by this Supreme Court which this court should address because it is a principal of major significance to the State's jurisprudence.

III. The Defendant's Right To Fair Notice Was Violated Where, After Being Remanded For A New Trial Under Both Case Numbers 15-007481-01-FH And 15-008119-01-FH, The Prosecution Neglected To File, And Serve, An Information Pertaining To Case Number 15-008119-01-FH. Additionally, The Defendant's Right To Due Process Under The Fourteenth Amendment Was Violated Where He Was Convicted On Charges Not Filed On A Felony Information In Relations To Case Number 15-008119-01-FH; And Convicted On Complainants Not Charged In Case Number 15-007481-01-FH.

Standard of Review:

Constitutional claims are reviewed *de novo*, as are issues of statutory interpretation. *People v. Dendel*, 481 Mich. 114, 124; 748 N.W.2d 859 (2008).

The Due Process clause of the Fourteenth Amendment mandates that a state's method of charging a crime give a defendant 'fair notice' of the charge against the defendant, to permit the defendant to adequately prepare a defense." *People v. Chapa*, 283 Mich. App. 360, 364; 770 N.W.2d 68 (2009); See *Chambers v. Mississippi*, 410 U.S. 234.

A conviction on one ground may not be sustained on grounds that might have been charged but were not. "It is as much a violation of Due Process to send an accused to prison following conviction of a charge on which he was never tried as it would be to convict him upon a charge that was never made." *Cole v. Arkansas*, 333 U.S. 196.

Issue Preservation:

Mr. Hardrick raised the issue of the People failing to file and serve an information of charges for the alleged false pretenses in case number 15-008119-01-FH. (T. 10/5/18 42-43). Mr. Hardrick also raised the above issue on direct appeal in his Standard 4 Brief and further elaborated on the Court of Appeals failure to address the claim on it merits in his Motion for reconsideration (Exhibit 7, Pgs 8-9).

Grounds For Relief:

This court should grant relief on the above issue due to the fact that Mr. Hardrick has been sentenced to a minimum 30 years prison term for two counts of false pretenses under case number 15-008119-01-FH where no information of charges had been filed for the said case number at his second trial constituting as a conviction for uncharged conduct and a violation of his right to fair notice. Furthermore, this court should grant relief due to the fact that Mr. Hardrick was also convicted on complainants that were not charged in case number 15-007481-01-FH in violation of both US Supreme Court and this Supreme Court's precedence. The Court of Appeals did not address the claim as it was raised on its merits, but instead, reconstructed the question raised and denied Mr. Hardrick relief. The Court of Appeals opinion, after reconstructing the claim, is clearly erroneous and will cause a material injustice to Mr. Hardrick. MCR 7.305(s)(a)(b).

V. The Evidence Was Insufficient To Support The Conviction Of Criminal Enterprise For False Pretenses In Case Number 15-007481-01-FH Where: (1) The Court of Appeals Had Vacated All Counts Of Forgery Of A Document Which Was The Original Predicate Offense Of The Criminal Enterprise; (2) The People Failed To Produce Any Evidence To Support The Charged Offenses Against Redford Township Whose The Only Complainant/Victim Charged In The Information; (3) The Defendant Held A Legal Claim In The Properties He Rented; (4) The Trial Court Only Entered For One Count Of False Pretenses For The Criminal Enterprise In Case Number 15-007481-01-FH.

Standard Of Review:

This Court reviews de novo a sufficiency of the evidence challenged. (People v. Harrison, 283 Mich. App. 374, 377; 768 N.W.2d 92 (2009). "Due Process requires that, to sustain a conviction, the evidence must show guilt beyond a reasonable doubt." (People v. Horverson, 291 Mich. App. 171, 175; 804 N.W.2d 757; US Const, Amis V, XIV; Const. 1963, Art. II, §17. A claim of insufficient evidence ~~must~~ to support a verdict may be brought on direct appeal even where no motion for directed verdict was made at trial. (People v. Patterson, 248 Mich. 502, 505 (1937).

Issue Preservation:

Mr. Hardrick raised the above-titled issue on direct appeal.

Grounds For Relief:

This Court must grant relief on the above-titled issue because the decision of the Court of Appeals is clearly erroneous and will cause a material injustice to Mr. Hardrick, and the decision of the Court of Appeals goes against US Supreme Court precedence.

Analysis:

The critical inquiry for a court reviewing a claim of insufficient evidence is whether, viewing the evidence in the light most favorable to the prosecutor, a rational trier of fact could have found the charged crime was proven beyond a reasonable doubt. Jackson v. Virginia, 443 US 307; 99 S. Ct. 2781; 61 L Ed. 2d 560 (1979).

Jackson held that a reviewing court must find there was "evidence necessary to convince a trier of fact beyond a reasonable doubt of the existence of every element of the offense." Id. at 316 (emphasis added). In Re Winship, 397 US 358; 90 S. Ct. 1068; 25 L. Ed. 2d 368 (1970). A conviction is not supported by sufficient evidence under this standard violates due process of law of the United States Constitution. US Const. Amends. V, XIV. Jackson supra. Thus, if sufficient evidence ~~was~~ is not introduced as to each element, due process requires reversal and a judgment of acquittal should be entered.

APPENDICE

M

Third Information For Case 15-007481-01-FH
(Does Not Exist On Record)

THIRD AMENDED
INFORMATION
FELONYTH DISTRICT COURT
RD JUDICIAL CIRCUIT

The People of the State of Michigan

vs

BERNARD ANTOINE HARDRICK 82-15716846-01

Offense Information

Police Agency / Report No.

REDFORD TWP PD 15-5179

Date of Offense

6/16/15-08/25/15 DH

Place of Offense

VARIOUS ADDRESSES IN WAYNE COUNTY

Complainant or Victim

TOWNSHIP OF REDFORD

Complaining Witness

WILLIAM HAND

STATE OF MICHIGAN, COUNTY OF Wayne

In the name of the People of the State of Michigan: The Prosecuting Attorney for this county appears before the Court and informs the Court that on the date and at the location above described, the Defendant(s)

COUNT 1: CRIMINAL ENTERPRISES - CONDUCTING

being a person employed by or associated with an enterprise, to wit: KIMBERLY SEABORN AND/OR TONIA FLETCHER AND/OR PAPER TRAIL INCORPORATED AND/OR HARDRICK INVESTMENT GROUP, LLC, did knowingly conduct or participate in the affairs of the enterprise directly or indirectly through a pattern of racketeering activity, consisting of two or more of the following incidents of racketeering, to wit:

on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (17621 FIVE POINTS), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY, MCL 750.248b;

and on or about 6/19/2015 to 7/13/2015, in REDFORD, MI (13501 WOODBINE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (12963 WOODBINE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/31/2015, in REDFORD, MI (13591 LENORE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (18300 GLASTONBURY), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY, MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (18300 GLASTONBURY), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FALSE PRETENSES - \$1,000 OR MORE BUT LESS THAN \$20,000 MCL 750.2814a,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (20274 BURGESS), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in ALLEN PARK, MI (14755 MORAN), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in DETROIT, MI (13510 APPLETON), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in SOUTHGATE, MI (12661 FORDLINE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to wit: FORGERY OF A DOCUMENT AFFECTING REAL PROPERTY MCL 750.248b,

and on or about 6/19/2015 TO 7/13/2015, in SOUTHGATE, MI (12661 FORDLINE), defendant did commit AND/OR attempt to commit AND/OR conspire to commit AND/OR aid or abet in the commission of the following offense for financial gain, to

CRIMINAL ENTERPRISES - NOTICE OF INTENT TO FORFEIT PROPERTY

Pursuant to MCL 750.159j(5), the following property was used in the course of, intended for use in the course of, derived from or realized through the racketeering conduct alleged herein, and upon conviction under MCL 750.159i, is subject to criminal forfeiture: 1) ANY AND ALL PROCEEDS AND SUBSTITUTED PROCEEDS FROM THE CRIMES COMMITTED BY THE DEFENDANT(S). 2) ANY AND ALL INSTRUMENTALITIES AND/OR EQUIPMENT AND/OR VEHICLES AND/OR COMPUTER RELATED EQUIPMENT AND/OR REAL PROPERTY.

COUNT 2: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 20274 BURGESS, DETROIT, MI

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1391. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 3: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 20274 BURGESS, DETROIT, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1391. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 4: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 20274 BURGESS, DETROIT, MI

did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]

FELONY: 3 Years and/or \$5,000.00

COUNT 5: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 13591 LENORE, REDFORD, MI

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52327; PAGE 203. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 6: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 13591 LENORE, REDFORD, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed, or deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52327; PAGE 203. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 7: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 13591 LENORE, REDFORD, MI

did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]

FELONY: 3 Years and/or \$5,000.00

COUNT 8: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 17621 FIVE POINTES, REDFORD, MI

did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1389. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 9: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 17621 FIVE POINTS, REDFORD, MI

did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]

This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52345; PAGE 1389. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).

FELONY: 14 Years

COUNT 23: FORGERY OF DOCUMENT AFFECTING REAL PROPERTY - 18300 GLASTONBURY, DETROIT, MI
 did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud, ; contrary to MCL 750.248b. [750.248B]
 This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52319; PAGE 411. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 24: UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY - 18300 GLASTONBURY, DETROIT, MI
 did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit ; contrary to MCL 750.249b. [750.249B]
 This document was recorded with the WAYNE COUNTY County Register of Deeds at LIBER 52319; PAGE 411. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 25: REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE - 18300 GLASTONBURY, DETROIT, MI
 did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 26: FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00
 did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]
FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See Southern Union Co. v United States 132 S. Ct. 2344 (2012)

COUNT 27 DEFENDANT(S) (01): FORGERY OF DOCUMENT AFFECTING REAL PROPERTY
PLACE OF OFFENSE: 3290 SHERBOURNE, DETROIT
 did falsely make, alter, forge or counterfeit a deed with intent to injure or defraud; contrary to MCL 750.248b. [750.248B]
 This document was recorded with the Wayne County Register of Deeds at Liber 52310; Page 693. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 28 DEFENDANT(S) (01): UTTERING AND PUBLISHING A DOCUMENT AFFECTING REAL PROPERTY
PLACE OF OFFENSE: 3290 SHERBOURNE, DETROIT
 did, utter and publish as true, a certain false, forged, altered or counterfeit deed with intent to injure or defraud, knowing said instrument to be false, altered, forged or counterfeit; contrary to MCL 750.249b. [750.249B]
 This document was recorded with the Wayne County Register of Deeds at Liber 52310; Page 693. Upon conviction the court must enter an order indicating that this document is invalid, and shall have a copy of the invalid document and a certified copy of its order recorded in the office of the appropriate register of deeds. (See MCL 750.248B(4)).
FELONY: 14 Years

COUNT 29 DEFENDANT(S) (01): REAL PROPERTY - RECORDING FRAUDULENT CONVEYANCE
PLACE OF OFFENSE: 3290 SHERBOURNE, DETROIT
 did procure or place upon record a conveyance of real estate, with the intent to deceive any person as to the identity of the grantor mentioned in said conveyance; contrary to MCL 565.371; MSA 26.681. [565.371]
FELONY: 3 Years and/or \$5,000.00

COUNT 30 DEFENDANT(S) (01): FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00
 did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]
FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See Southern Union Co. v United States 132 S. Ct. 2344 (2012)

COUNT 31 DEFENDANT(S) (01): FALSE PRETENSES - \$1,000.00 OR MORE BUT LESS THAN \$20,000.00
did, with the intent to defraud or cheat, make or use a false pretense to obtain from a person money, personal property, or the use of an instrument, facility, article, or other valuable thing or service, having a value of \$1,000.00 or more but less than \$20,000.00; contrary to MCL 750.218(4)(a). [750.2184A]
FELONY: 5 Years and/or \$10,000.00, or 3 times the value of the money or property involved, whichever is greater. To impose a fine of 3 times the value, the defendant must admit the amount, or it must be determined by the trier of fact at trial. See *Southern Union Co. v United States* 132 S. Ct. 2344 (2012)

HABITUAL OFFENDER - FOURTH OFFENSE NOTICE

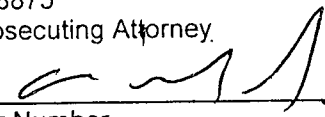
Take notice that the defendant was previously convicted of three or more felonies or attempts to commit felonies in that on or about 11/16/2005, he or she was convicted of the offense of ROBBERY ARMED in violation of 750.529; in the 3RD CIRCUIT Court for WAYNE COUNTY, State of MICHIGAN;
And on or about 11/16/2005, he or she was convicted of the offense of CARJACKING in violation of 750.529A; in the 3RD CIRCUIT Court for WAYNE COUNTY, State of MICHIGAN;
And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;
And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;
And on or about 4/17/2012, he or she was convicted of the offense of UTTERING & PUBLISHING in violation of 750.249; in the CIRCUIT Court for MACOMB COUNTY, State of MICHIGAN;
Therefore, defendant is subject to the penalties provided by MCL 769.12. [769.12]
PENALTY: Life if primary offense has penalty of 5 Years or more; 15 Years or less if primary offense has penalty under 5 Years. The maximum penalty cannot be less than the maximum term for a first conviction.

Upon conviction of a felony or an attempted felony court shall order law enforcement to collect DNA identification profiling samples.

and against the peace and dignity of the State of Michigan.

3-15-16
Date

Kym Worthy
P38875
Prosecuting Attorney

By:  P68227
Bar Number