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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KELLI SAMANTHA-REBECCA GOULDER,

Defendant-Appellant.

FOR PUBLICATION
January 09, 2026
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No. 373826
Osceola Circuit Court
LC No. 2023-006227-FH

Before: CAMERON, P.J., and KOROBKIN and BAZZI, JJ.

KOROBKIN, J.

Defendant, Kelli Samantha-Rebecca Goulder, appeals by leave granted[1] her judgment of sentence following the revocation of her probation. On appeal, defendant challenges the reimposition of fees, fines, and costs after her probation was revoked and the scoring of Offense Variable (OV) 19. For the reasons that follow, we conclude that defendant is entitled to resentencing on the issue of fees, fines, and costs, but is not entitled to relief on OV 19. Accordingly, we affirm in part and vacate in part defendant's July 5, 2024 judgment of sentence and remand for resentencing.

I. BACKGROUND AND FACTS

Following a traffic stop and arrest on May 2, 2023, defendant pleaded guilty to possession of methamphetamine and assaulting, resisting, or obstructing a police officer. On August 18, 2023, the trial court sentenced defendant to three years of probation and ordered her to pay $1,491 in fees, fines, and costs, consisting of $136 in mandatory fees, a $130 crime victim fee, $250 in court costs, a $250 fine, and $725 in attorney fees.

[1] *People v Goulder*, unpublished order of the Court of Appeals, entered January 24, 2025 (Docket No. 373826).

In June 2024, defendant pleaded guilty to violating several terms of her probation. On July 5, 2024, the trial court discharged defendant from probation, and resentenced her as follows:

> I am going to sentence you to the Michigan Department of Corrections for a period of 23 months to 10 years on the possession of methamphetamine charge. On the assaulting and obstructing charge, the recommendation is time served, which is 335 days. So, I'm going to sentence 335 and 335 on the resisting and obstructing, but the methamphetamines charge[], 23 months to 10 years, credit for 335 days already served. Additional attorney fees of $567.

Defendant's July 5, 2024 judgment of sentence reflected the aforementioned incarceration sentence but also ordered financial assessments unmentioned at the resentencing hearing: $136 in mandatory fees, a $130 crime victim fee, $250 in court costs, a $250 fine, and $1,292 in attorney fees.

This appeal followed.

II. FEES, FINES, AND COSTS

A. ISSUE PRESERVATION AND STANDARDS OF REVIEW

"A criminal defendant preserves an issue concerning the imposition of costs, fines, and assessments by objecting in the lower court." *People v Godfrey*, 349 Mich App 35, 39; 27 NW3d 35 (2023). Although the trial court did not state on the record that it was imposing assessments that appeared on the judgment of sentence, defendant did not object in the trial court—for example by filing a motion—after the judgment of sentence was entered. Therefore, we treat this issue as unpreserved. See *id.*

"Because this issue is unpreserved, our review is for plain error affecting substantial rights." *Id.* As our Supreme Court explained in *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999), for a defendant to avoid forfeiture under the plain-error rule, they must meet these three requirements:

> 1) [E]rror must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights. [*United States v Olano*, 507 US 725, 731-734; 113 S Ct 1770; 123 L Ed 2d 508 (1993).] The third requirement generally requires a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings. *Id.* [at 734]. It is the defendant . . . who bears the burden of persuasion with respect to prejudice. [*Id.* at 763 (quotation marks omitted).]

Then, if these three requirements are met, we

> must exercise [our] discretion in deciding whether to reverse. Reversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affected the fairness, integrity or public reputation of judicial proceedings independent of the defendant's innocence. [*Id.* at 763-767 (quotation marks and alteration omitted).]

This case also involves the interpretation and application of sentencing statutes and related court rules, which are questions of law that we review de novo. *People v Cunningham*, 496 Mich 145, 149; 852 NW2d 118 (2014); *People v Lee*, 489 Mich 289, 295; 803 NW2d 165 (2011).

B. ANALYSIS

Defendant argues that the trial court erred at resentencing by imposing the financial assessments it did. More specifically, defendant argues that once the trial court revoked defendant's probation and resentenced her, it did not have authority to order defendant to pay the fees, fines, and costs that were previously assessed as part of her now-extinguished probation order. We agree, in part. Defendant is partially correct insofar as the fees, fines, and costs in defendant's initial judgment of sentence were extinguished when the trial court discharged defendant from probation. But the trial court did have authority to impose financial assessments at resentencing.

Defendant relies primarily on *People v Krieger*, 202 Mich App 245; 507 NW2d 749 (1993). In that case, the defendant was initially placed on probation for five years and ordered to pay fines and costs, but he failed to comply with the terms of his probation, his probation was revoked, and he was resentenced to prison. As part of his prison sentence, the trial court "preserved [his] probation obligation to pay" the fines and costs. *Id*. at 247. On appeal, this Court vacated the portion of his sentence that required him to pay these assessments. The trial court's "sentencing authority is confined to the limits permitted by the statute under which it acts," we explained, and "it may not award costs[] unless there is express provision for them in the underlying statute." *Id*. (quotation marks and citation omitted). The probation statute authorized the trial court to assess fines and costs, but the statute for the underlying offense did not. *Id*. at 247-248. When the trial court revoked its probation order and resentenced the defendant to prison, the obligation to pay fines and costs that were part of the probation order were necessarily extinguished; the trial court was not allowed to "revoke only a portion of the probation order." *Id*. at 248. And because the statute for the underlying conviction did not authorize the trial court to impose fines or costs, the trial court erred in preserving the defendant's obligation to pay them.

Although *Krieger* provides part of the framework for evaluating defendant's appeal in this case, defendant fails to note that about a decade after *Krieger* was decided the Legislature enacted MCL 769.1k. *People v Lloyd*, 284 Mich App 703, 709-710; 774 NW2d 347 (2009). "MCL 769.1k allows a trial court to impose fines, costs, and assessments at sentencing." *Godfrey*, 349 Mich App at 40. Therefore, unlike in *Krieger*, in this case the trial court did have statutory authority to impose fees, fines, and costs at resentencing.

Certain assessments are mandatory. See *People v Lockridge*, 498 Mich 358, 387; 870 NW2d 502 (2015) (stating that generally, " 'shall' indicates a mandatory directive"). Under MCL 769.1k(1)(a), a trial court "shall impose the minimum state costs as set forth in [MCL 769.1j]" when sentencing a defendant. MCL 769.1j(1)(a) provides that a person convicted of a felony "shall" be assessed, at minimum, $68 in costs per felony. These minimum costs are paid to the justice system fund. MCL 769.1j(2). Here, because defendant pleaded guilty to two felonies, the trial court was required to assess her $136. Similarly, MCL 780.905(1)(a) provides that an assessment of $130 "shall" be ordered for felony convictions, which is "used to pay for crime victim's rights services." MCL 780.905(4).

Other fees, fines, and costs are discretionary. See *People v Hines*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 363151); slip op at 16 ("Use of the permissive term 'may' in a statute signals the Legislature's intent to leave the permissive action to the discretion of the trial court."). Here, the trial court had discretion to impose the $250 fine, $250 in court costs, and $1,292 in attorney fees. MCL 769.1k(1)(b) authorizes such discretionary assessments following a defendant's guilty plea as follows:

> The court may impose any or all of the following:
>
> (*i*) Any fine authorized by the statute for a violation of which the defendant entered a plea of guilty or nolo contendere or the court determined that the defendant was guilty.
>
> * * *
>
> (*iii*) Until December 31, 2026, any cost reasonably related to the actual costs incurred by the trial court without separately calculating those costs involved in the particular case, including, but not limited to, the following:
>
> (A) Salaries and benefits for relevant court personnel.
>
> (B) Goods and services necessary for the operation of the court.
>
> (C) Necessary expenses for the operation and maintenance of court buildings and facilities.
>
> (*iv*) The expenses of providing legal assistance to the defendant.

Thus, under MCL 769.1k(1)(b)(*i*), the trial court had discretion to order a $250 fine, as defendant pleaded guilty to violating MCL 333.7403(2)(b)(*ii*) and MCL 750.81d(1) and these statutes each permit a court to impose a fine of up to $2,000. Similarly, under MCL 769.1k(1)(b)(*iii*), the trial court had discretion to order that defendant pay costs "reasonably related to the actual costs incurred by the trial court" in processing a criminal case. And under MCL 769.1k(1)(b)(*iv*), the trial court was also authorized to order that defendant pay attorney fees.

Therefore, unlike in *Krieger*, 202 Mich at 248, the trial court was statutorily authorized to impose the fees, fines, and costs that appeared on defendant's July 5, 2024 judgment of sentence following the revocation of probation. Defendant overstates her case by asserting that the trial court had no such authority. However, the trial court did commit several errors in imposing the financial assessments in this case.

First, as in *Krieger*, defendant's obligation to pay the amounts imposed as part of defendant's initial August 18, 2023 judgment of sentence and order of probation was extinguished when the trial court revoked defendant's probation and resentenced her. *Krieger*, 202 Mich App at 248; see also *People v Kaczmarek*, 464 Mich 478, 483; 628 NW2d 484 (2001) ("[R]evocation of probation simply clears the way for a resentencing on the original offense."); MCL 771.4(5). The trial court had statutory authority to reimpose financial assessments at resentencing, but the

amounts due from defendant's August 18, 2023 judgment of sentence did not automatically transfer to defendant's July 5, 2024 judgment of sentence by operation of law.

Second, and relatedly, the trial court erred by failing to "state the sentence being imposed" on the record at the resentencing hearing as required by MCR 6.425(D)(1)(d). See *Godfrey*, 349 Mich App at 41 (holding that a trial court's failure "to state on the record its intention to impose fees" was plain error when those fees later appeared on the defendant's judgment of sentence). Here, the trial court stated at the resentencing hearing that it was sentencing defendant to

> a period of 23 months to 10 years on the possession of methamphetamine charge. On the assaulting and obstructing charge, the recommendation is time served, which is 335 days. So, I'm going to sentence 335 and 335 on the resisting and obstructing, but the methamphetamines charge[], 23 months to 10 years, credit for 335 days already served. Additional attorney fees of $567.

Again, defendant's July 5, 2024 judgment of sentence reflected the aforementioned incarceration sentence but also ordered defendant to pay $136 in mandatory fees, a $130 crime victim fee, $250 in court costs, a $250 fine, and $1,292 in attorney fees.[2] Because the trial court did not announce these fees, fines, and costs at the resentencing hearing, the trial court plainly erred. *Godfrey*, 349 Mich App at 41.

Third, although as discussed above the trial court was statutorily authorized to impose discretionary court costs and attorney fees, the trial court erred by not establishing a factual basis for the amounts that it imposed. Under MCL 769.1k(1)(b)(*iii*), the trial court may impose "any cost reasonably related to the actual costs incurred by the trial court." However, in *People Konopka (On Remand)*, 309 Mich App 345, 359-360; 869 NW2d 651 (2015), this Court held that "without a factual basis for the costs imposed, we cannot determine whether the costs imposed were reasonably related to the actual costs incurred by the trial court, as required by MCL 769.1k(1)(b)(*iii*)." Here, the trial court did not establish a factual basis for the costs imposed. Similarly, with regard to attorney fees, this Court has held that a "trial court must establish the cost of providing legal services to the specific defendant at issue when assessing attorney fees under MCL 769.1k(1)(b)(*iv*)." *People v Lewis*, 503 Mich 162, 167; 926 NW2d 796 (2018). Here, the trial court did not do so.

Because our review in this case is under the plain-error standard, see *Carines*, 460 Mich at 763-764, we must determine whether the above errors warrant reversal. In *Godfrey*, applying that standard, this Court observed that the fees at issue had been discussed "at length at the resentencing hearing, and defendant admitted to owing the fee." *Godfrey*, 349 Mich App at 41. Therefore, we determined that the trial court's error "did not affect 'the fairness, integrity, or public reputation' of the proceedings," *id.*, quoting *Carines*, 460 Mich at 763, and opted not to reverse.

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[2] The amount of $1,292 in attorney fees, of course, is the mathematical sum of the $725 in attorney fees imposed at the August 18, 2023 sentencing plus the "[a]dditional attorney fees of $567" announced at the July 5, 2024 resentencing. But because the initial $725 attorney-fee assessment was extinguished when defendant's probation was revoked, see *Krieger*, 202 Mich App at 248, there was no longer a base amount upon which to stack the "additional" $567 at resentencing.

By contrast, in *Konopka*, where review was also for plain error, the trial court's failure to establish a factual basis for the costs imposed resulted in a remand for the trial court to do so.

Here, unlike in *Godfrey*, the fees, fines, and costs at issue were not discussed at the resentencing hearing. In fact, it appears that the trial court may have been unaware that such assessments did not automatically carry over from the initial judgment of sentence, and thus it is unclear, with regard to those that were not mandatory, whether the trial court would choose to exercise its discretion to reimpose these amounts. Further, as in *Konopka*, the trial court did not establish a factual basis for the discretionary costs and attorney fees imposed. Accordingly, defendant was prejudiced by the error, and we conclude that relief is warranted under the plain-error standard.

To remedy these errors, we vacate in part and remand for resentencing. Any fees, fines, and costs that were imposed as part of defendant's initial sentence were extinguished when the trial court revoked defendant's probation and resentenced her on the underlying conviction. Therefore, at resentencing the trial court must state on the record the complete sentence it decides to impose, including all financial assessments. MCR 6.425(D)(1)(d). Minimum state costs and the crime victim assessment are mandatory, and the other assessments are discretionary. As required by *Konopka*, 309 Mich App at 360, and *Lewis*, 503 Mich at 167-168, the trial court must also explain the factual basis for any court costs and attorney fees. We note, however, had the trial court properly established on the record the factual basis for the relevant fees, fines, and costs at the initial sentencing, it would have been permissible for the court, upon resentencing, to reimpose those same financial assessments without restating the factual basis for each individual fee, fine, and cost, provided the court expressly indicated that it was relying on the reasons previously articulated at the original sentencing. But if the trial court elects to impose different or additional fees, fines, and costs at resentencing, or if the court failed to delineate the basis for the prior financial assessments at the original sentencing and nonetheless seeks to reimpose them, the court must explicitly state on the record the grounds for doing so.

III. OV 19

A. ISSUE PRESERVATION AND STANDARDS OF REVIEW

"To preserve a challenge to the scoring of the sentencing guidelines, the challenge must be raised at sentencing, in a proper motion for resentencing, or in a proper motion to remand filed in this Court." *People v Ventour*, ___ Mich App ___, ___; ___ NW3d ___ (2023) (Docket No 363922); slip op at 9. Defendant did not take any of those actions; therefore, we review this issue for plain error affecting defendant's substantial rights. *Id.*

In reviewing a sentencing court's guidelines calculation, we review findings of fact for clear error, while the determination of whether the facts were sufficient to assess points for the OV is reviewed de novo. *People v Hardy*, 494 Mich 430, 439; 835 NW2d 340 (2013).

B. ANALYSIS

Defendant contends that the trial court erred by scoring OV 19 at 10 points because defendant did not affirmatively interfere with the administration of justice. This argument lacks merit.

Although the statutory sentencing guidelines are only advisory, the trial court is required to consider the guidelines when imposing a sentence. *Lockridge*, 498 Mich at 365. To determine a minimum sentencing range under the guidelines, the trial court must determine the offense category of the sentencing offense, determine which OVs are applicable to that category, and then score those OVs. MCL 777.21(1)(a). The trial court must also score the applicable Prior Record Variables (PRVs) and then, using the total OV and PRV points, determine a minimum sentencing range using the sentencing grid that corresponds to the class of the sentencing offense. MCL 777.21(1)(b)-(c); see also *People v Morson*, 471 Mich 248, 255; 685 NW2d 203 (2004). A trial court's factual determinations at sentencing must be supported by a preponderance of the evidence. *People v Osantowski*, 481 Mich 103, 111; 748 NW2d 799 (2008). A defendant is entitled to resentencing when the guidelines are improperly calculated and the error affected the applicable guidelines range. See *People v Francisco*, 474 Mich 82, 89, 92; 711 NW2d 44 (2006).

Before turning to the merits, we address two threshold issues. First, defendant has appropriately advised the Court that she has been released on parole, potentially rendering her challenge to the trial court's guidelines calculation moot. See *Kaczmarek*, 464 Mich at 481. However, because defendant remains on parole, and is therefore subject to the possibility of parole revocation and reincarceration on her current sentence, we conclude that her challenge to OV scoring is not moot. See *People v Parker*, 267 Mich App 319, 329; 704 NW2d 734 (2005); *People v Nard*, ___ Mich App ___, ___ n 1; ___ NW3d ___ (2025) (Docket No. 369185). Should a lower guidelines range persuade the trial court not to impose a sentence of incarceration, defendant would not be subject to the "continuing limitations on [her] freedom" that parole entails. *Parker*, 267 Mich App at 328.

Second, it is unclear whether defendant can challenge her guidelines score on appeal from a probation violation sentence when the score was calculated and could have been challenged at her initial sentencing. See *Kaczmarek*, 464 Mich at 485 (cautioning that a defendant's appeal following probation revocation "is limited in scope" to "issues that he could not have raised in an appeal from his . . . conviction" and "issues arising from the resentencing"). This precise scenario was discussed by Justice HOOD in *People v Carey*, 25 NW3d 682, 682-685 (Mich, 2025) (HOOD, J., concurring in order denying application for leave to appeal):

> Under a broad interpretation of *Kaczmarek*, probationers are unable to challenge the scoring of their sentencing guidelines on direct appeal from an order revoking probation because the challenge could have been raised on direct appeal of their convictions. But I think this interpretation is impractical and ignores the language in *Kaczmarek* that the defendant can raise "issues arising from the resentencing."
>
> In reality, most probationers do not raise guideline scoring issues on direct appeal of their convictions. There is little incentive for probationers to do so, if they are satisfied with their probation sentence. Probationers may find it futile to spend the

> time and expense pursuing these challenges on direct appeal. Further, if the Court of Appeals concludes that there was a guidelines scoring issue, the general remedy would be to remand for resentencing. This would not be a preferable outcome for someone who did not receive a prison sentence. Put differently, there are disincentives at every stage for a probationer who has not yet violated the terms of their probation to challenge their guidelines scores.
>
> If *Kaczmarek* precludes probationers from raising guidelines scoring issues on direct appeal from orders revoking probation, many legally viable challenges may never be pursued on appeal. This could lead to trial judges sentencing defendants to jail or prison terms based on an incorrect guidelines range. [*Id*. at 684-685.[3]]

Ultimately, Justice HOOD concluded that it was unnecessary to decide the issue because the defendant's OV challenge in *Carey* likely lacked merit. As explained below, we conclude that defendant's challenge to OV 19 scoring in this case lacks merit as well. Therefore, as in *Carey*, we need not decide whether defendant is allowed to raise the issue on appeal from resentencing; we assume, without deciding, that the issue is properly before us.

Returning to the present case, under MCL 777.49(c), OV 19 is properly scored at 10 points when "[t]he offender otherwise interfered with or attempted to interfere with the administration of justice, or directly or indirectly violated a personal protection order[.]" "[T]he plain and ordinary meaning of 'interfere with the administration of justice' for purposes of OV 19 is to oppose so as to hamper, hinder, or obstruct the act or process of administering judgment of individuals or causes by judicial process." *People v Hershey*, 303 Mich App 330, 343; 844 NW2d 127 (2013). "OV 19 is generally scored for conduct that constitutes an attempt to avoid being caught and held accountable for the sentencing offense." *People v Sours*, 315 Mich App 346, 349; 890 NW2d 401 (2016). This Court has recognized that "fabrications that were self-serving attempts at deception obviously aimed at leading police investigators astray" are considered interference with the administration of justice. *People v Muniz*, 343 Mich App 437, 455; 997 NW2d 325 (2022) (quotation marks and citation omitted). "The trial court may consider all the record evidence when sentencing, including the contents of a presentence investigation report." *Armstrong*, 305 Mich App at 245.

Defendant argues on appeal that she did not lie, flee, or resist arrest. However, it appears from defendant's brief that defendant is basing her argument on a January 30, 2022 incident that is alluded to in her presentence investigation report but is not the incident that gave rise to the instant offense of conviction. The offense for which defendant was sentenced to probation, and ultimately resentenced to 23 months to 10 years in prison, occurred on May 2, 2023.[4] With that clarification, there is little doubt that the trial court did not err in scoring OV 19 at 10 points.

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[3] Justice HOOD's statement was joined by Justices BOLDEN and THOMAS. *Carey*, 25 NW3d at 685.

[4] At the time of the May 2, 2023 incident, defendant was on probation for the January 30, 2022 offense. At the August 18, 2023 sentencing hearing for the May 2, 2023 incident, defendant was

Defendant's presentence investigation report shows that on May 2, 2023, deputies stopped a vehicle in which defendant was a passenger for a broken taillight. During the stop, defendant refused to provide identification to the deputies, denied that her first name was Kelli after the driver told them her name, and attempted to conceal her face with the hood of her sweatshirt. Defendant also called 911 during the stop, instead of speaking to the deputies on scene, and complained that she "did not feel good." The driver of the vehicle, however, told the deputies that defendant did not appear sick until they pulled over. Upon recognizing defendant from previous contacts with her, one of the deputies sent her information to dispatch, who confirmed that defendant had multiple active warrants for her arrest. With this information, the deputies instructed defendant to exit the vehicle six times, but she refused to comply. A deputy then grabbed defendant's wrist to remove her from the vehicle, but she screamed and pulled away from him while exiting the vehicle. As the deputy attempted to handcuff her, she pulled her hands away from her back, and a second deputy had to assist with applying the handcuffs. The deputies then transported defendant to a hospital where she refused to identify herself to medical staff for over an hour and later only provided an alias, causing the deputies to stay with her at the hospital for over two hours.

In light of these facts, a preponderance of the evidence supports scoring OV 19 at 10 points because defendant attempted to interfere with the administration of justice by refusing to identify herself, refusing to comply with the police officers' lawful commands, and physically resisting arrest. See *Sours*, 315 Mich App at 349; *Muniz*, 343 Mich App at 455; *People v Cook*, 254 Mich App 635, 640; 658 NW2d 184 (2003). Therefore, the trial court did not err by assessing OV 19 at 10 points and defendant is not entitled to resentencing on this issue.

IV. CONCLUSION

For the reasons stated, defendant's July 5, 2024 judgment of sentence is affirmed in part and vacated in part, and the case is remanded for resentencing consistent with this opinion. We do not retain jurisdiction.

/s/ Daniel S. Korobkin
/s/ Thomas C. Cameron
/s/ Mariam S. Bazzi

discharged from probation in the case that arose from the January 30, 2022 incident and the 2022 case was closed.