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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 04, 2026 10:45 AM
v	No. 372066 Cheboygan Circuit Court
KRISTA MARIE WILEY-PERCY, Defendant-Appellant.	LC No. 2023-006723-FH

Before: M. J. KELLY, P.J., and O'BRIEN and LIEVENSE, JJ.

PER CURIAM.

Defendant appeals as of right her jury-trial convictions of cruelty to 25 or more animals, MCL 750.50(4)(e), and cruelty to 10-24 animals, MCL 750.50(4)(d). We vacate defendant's conviction of cruelty to 10-24 animals under MCL 750.50(4)(d), but we affirm her conviction of cruelty to 25 or more animals under MCL 750.50(4)(e).

I. BACKGROUND

Cheboygan County Animal Control went to defendant's home after an unknown number of puppies were taken from the home and given to the care of the Cheboygan County Humane Society, where they tested positive for parvovirus. The individual who retrieved the puppies reported that defendant had other animals living at her home, and that the animals' living conditions were inappropriate. Cheboygan County Animal Control Deputy Mackenzie Collins, who received the puppies when they were surrendered, testified that they had no energy and were unable to keep their heads up. Deputy Collins helped prepare the search warrant for defendant's residence to check the living conditions of the other animals at defendant's home.

During the ensuing search of defendant's home, individuals with Cheboygan County Animal Control took photos of the animals' living conditions, and the prosecution presented those photos at trial. Several photographs depicted dogs in crates that Dr. Timothy Burg, a Cheboygan County Humane Society veterinarian, said were too small for long-term housing and lacked water. There were also photographs of two dogs in a pen that had a basin of water that was completely frozen, with feces on the ground.

Deputy Collins testified that defendant kept 10-12 dogs in the house and four or five in kennels. The kennels, in Deputy Collins' opinion, were not appropriately sized for the dogs, and lacked food and water. Deputy Collins further opined that the dogs did not have enough room to sit, lay down, stand, or move around in the kennels. Deputy Collins also observed an "excessive" amount of feces in an outside pen, and the pen's fencing was in disrepair. The dogs outside also did not have food, water, or bedding available.

The prosecution also presented a series of photos depicting an emu enclosure with food available, but the only water in the enclosure was frozen. There was also a series of photos of a rabbit that had food available but no water or bedding, and a pig enclosure that had only frozen water available. Deputy Collins observed five pigs in the enclosure and opined that they did not have proper bedding.

Another enclosure held horses and goats. According to Dr. Burg, the goats had urinated and defecated on the only hay that was available in the enclosure, and the only water available was frozen. Both Dr. Burg and Deputy Collins described the horses as agitated. Dr. Burg also testified that it was not ideal to house horses and goats together due to their incompatible eating and behavioral habits, and that the animals needed more space than the enclosure provided. Deputy Collins estimated that there were three or four horses in the enclosure and about 30 goats. Dr. Burg also opined that the amount of feces in the enclosure raised sanitary concerns.

Another set of photographs depicted empty food bowls for defendant's chickens and ducks; Dr. Burg testified that chickens should have food available continuously. The chickens were, according to Dr. Burg, pecking the ground and looking for food, indicating that they were hungry, and the fowl roosting area had several inches of fecal matter built up on the floor. Deputy Collins estimated that there were 35 chickens and ducks, she opined that they lacked food and water, and she observed that their coop had piles of feces in it.

Another photo depicted a husky enclosure. The hut for the husky was small and lacked bedding; it was also, according to Dr. Burg, unsanitary and had a mash of frozen food and water.

Dr. Burg opined that there were too many animals at defendant's home for the space they were in, and that they were not provided with adequate food, water, or sanitation. The unsanitary conditions, Dr. Burg further opined, risked the spread of disease among the animals and to humans.

Nevertheless, Dr. Burg did not believe that any of the animals were in immediate danger, so they were not removed that day. Deputy Collins gave a slightly different reason for not removing the animals—according to the deputy, the animals were not taken by animal control because their shelter did not have the capacity to safely house the animals, and animal control did not want to risk spreading disease to the animals at the shelter.

Defendant presented several witnesses in her defense, including Kyle McCarty (a field inspector for the Michigan Department of Agriculture) and Dr. Peter Kirsten (a veterinarian and kennel compliance specialist), who both visited defendant's home and opined that, while certain aspects of the animals' living conditions at defendant's home were perhaps not ideal, neither witness had serious concerns about the animals' welfare. Angela Walters, a Cheboygan County Animal Control officer, was also called in defendant's defense. Walters testified that she helped

execute the warrant on defendant's property, and she would have seized the animals given the conditions that she saw on the day of the search. When animal control chose not to do this, Walters interpreted it as animal control implicitly recognizing that defendant was "capable and able of caring for" the animals. At the close of the defense's proof, defendant stated in a colloquy with the trial court that she intended to exercise her right to remain silent.

The case was then submitted to the jury, which found defendant guilty as stated earlier. This appeal followed.

II. INEFFECTIVE ASSISTANCE OF COUNSEL

Defendant on appeal first argues that her trial counsel rendered constitutionally ineffective assistance in a variety of ways. None of defendant's arguments have merit.

A. STANDARD OF REVIEW

This Court in *People v Haynes*, 338 Mich App 392, 429; 980 NW2d 66 (2021), explained the relevant standard of review as follows:

> Ordinarily, whether a defendant has been denied effective assistance of counsel is a mixed question of fact and law—the trial court's factual findings supporting its decision are reviewed for clear error, while the court's determination of whether those facts violated the defendant's right to the effective assistance of counsel is reviewed de novo. *People v Dixon-Bey*, 321 Mich App 490, 515; 909 NW2d 458 (2017). Defendant, however, failed to obtain an evidentiary hearing to expand the record, so there are no factual findings to which this Court must defer, and this Court's review is instead limited to errors apparent on the record. *People v Jordan*, 275 Mich App 659, 667; 739 NW2d 706 (2007).

B. ANALYSIS

To establish a claim of ineffective assistance, "a defendant must show that (1) counsel's performance fell below an objective standard of reasonableness and (2) but for counsel's deficient performance, there is a reasonable probability that the outcome would have been different." *People v Trakhtenberg*, 493 Mich 38, 51; 826 NW2d 136 (2012). Defendant bears the burden of proving that her trial counsel was ineffective. See *People v Dixon*, 263 Mich App 393, 396; 688 NW2d 308 (2004). This burden includes "establishing the factual predicate" of defendant's claim. *Haynes*, 338 Mich App at 430.

Defendant first argues that her trial counsel was ineffective because her trial counsel "prevented [defendant] from exercising her right to testify." In support of her claim, defendant asserts that she did not testify and "[t]he trial record contains no colloquy establishing that she knowingly waived her right." This is untrue. The following colloquy occurred on the record:

> *THE COURT*. Okay, please be seated. All right, so that—[defense counsel] indicated no further witnesses, which is in effect the defense resting. So, I guess [defendant], do you understand that you have you've got two constitutional rights

that you have to choose from, you can't exercise them both. You have the constitutional right to testify in your own defense, you also have the constitutional right not to and to remain silent in which I will instruct the jury not to use that silence in any way against you. Do you understand that you've got both those rights, but you can only pick one of them?

DEFENDANT. Yes.

THE COURT. And [defense counsel's] role is to advise you about those rights and the pros and cons of exercising one or the other, and give you strategic advice about how he thinks the proofs are going and—and whether you should or shouldn't testify, but the ultimate decision is yours and yours alone, do you understand that?

DEFENDANT. Yes.

THE COURT. Have you had time to talk with your attorney about that?

DEFENDANT. Yes.

THE COURT. Do you require any more time to talk to your attorney about that?

DEFENDANT. No.

THE COURT. And have you been able to make a decision about how you want to proceed with that?

DEFENDANT. Yes.

THE COURT. And what is your decision?

DEFENDANT. Remain silent.

The record thus plainly shows that defendant knowingly waived her right to testify and decided to instead exercise her right to remain silent. Defendant therefore cannot establish the factual predicate of her claim that her trial counsel "prevented" her from testifying in her defense.

Defendant next argues that her trial counsel was ineffective for not having defense witness Dr. Kirsten qualified as an expert witness. This was significant, according to defendant, because it prevented the jury from "consider[ing] [Dr. Kirsten's] testimony insofar as it suggested legal compliance." But, as our Supreme Court recently reiterated, "it is 'important that [an] expert witness not be permitted to testify about the requirements of law which apply to the particular facts in the case or to phrase his opinion in terms of a legal conclusion.' " *People v Alexander*, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 168009); slip op at 13, quoting *People v Drossart*, 99 Mich App 66, 75; 297 NW2d 863 (1980). But a witness "may, of course, testify to the facts relevant to the applicable legal principle." *Drossart*, 99 Mich App at 77. It follows that even if Dr. Kirsten was qualified as an expert, he would not have been permitted to testify about

whether defendant complied with the law.[1] Defense counsel's supposed failure to qualify Dr. Kirsten as an expert therefore did not prevent the jury from "consider[ing] [Dr. Kirsten's] testimony insofar as it suggested legal compliance." Defendant accordingly cannot show that he was prejudiced by her counsel's failure to qualify Dr. Kirsten as an expert, so she cannot establish that her counsel rendered constitutionally ineffective assistance in this respect. See *Strickland v Washington*, 466 US 668, 670; 104 S Ct 2052; 80 L Ed 2d 674 (1984) ("If it is easier to dispose of an ineffectiveness claim on the ground of lack of sufficient prejudice, that course should be followed.").

Defendant next contends that her counsel was ineffective for not calling seven potential witnesses that, according to defendant, would have provided testimony favorable to the defense. Defendant fails to provide affidavits from these witnesses establishing what they would have testified to, however. Defendant instead submits an affidavit in which she avers what these witnesses would have said had they been called as witnesses. This is obviously insufficient to establish what the witnesses would have said had they been called to testify. The affidavit is not even enough to establish the need for an evidentiary hearing because it only states what defendant thinks other people would have said had they been called to testify.

But even considering the alleged substance of these proposed witnesses' testimony still does not establish that defendant's trial counsel was ineffective for not calling the witnesses at defendant's trial. Defendant claims that these witnesses would have testified favorably about defendant's animals' condition and living environment, but defendant already had witnesses testify to this, making this testimony cumulative.[2] Defendant does not explain how this cumulative testimony would have made her defense more persuasive, particularly given that the prosecution's case hinged largely on the photographs of the conditions of the animals' living environment, which the jury would be able to assess for themselves. Defendant therefore has failed to establish both that it was unreasonable for her trial counsel to not present this cumulative evidence and that the failure to present this cumulative evidence prejudiced defendant. See *People v Carbin*, 463 Mich 590, 603-605; 623 NW2d 884 (2001) (holding that, when three alibi witnesses would have provided essentially the same testimony, it was not objectively unreasonable for defense counsel to call only one witness in part because "there is no obvious reason why one person generally familiar with the subject would be less persuasive than three," and defense counsel's decision to only call one witness did not prejudice defendant in part because "the marginal difference in the alibi testimony of [the two additional witnesses] would not have had a significantly greater effect on the trier of fact than did the testimony of [the third alibi witness]").

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[1] Indeed, when Dr. Kirsten testified that he did not believe that defendant had violated the law, the trial court interjected, striking that testimony and informing Dr. Kirsten that "you can testify about your factual observations, about your opinions in veterinary medicine if you're qualified in that, but you can't give opinions about whether something complied with the law or not." This ruling was entirely consistent with the law.

[2] It is also not apparent that some of the witnesses—namely the veterinarians that defendant claims should have been called—ever visited defendant's home.

Defendant lastly argues that her trial counsel was ineffective in his handling of the jury instructions in two ways. First, defendant argues that her trial counsel was ineffective because he did not object when the trial court "misstated the definition of 'adequate care.' "

MCL 750.50(2)(a) makes it a crime for an owner of an animal to "[f]ail to provide [the] animal with adequate care," and when defendant was convicted, MCL 750.50(1)(a) defined "adequate care" as "the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention in order to *maintain* an animal in a state of good health." MCL 750.50(1)(a), as amended by 2019 PA 135 (emphasis added).[3] Defendant argues that the trial court erred when it instructed the jury, "Adequate care means providing enough water, food, and exercise, and providing sufficient shelter, sanitary conditions, and veterinary care to *keep* an animal in a state of good health."[4] (Emphasis added.) While defendant is correct insofar as "keep" and "maintain" are different words, she is incorrect that the use of this different word in the trial court's instructions was significant. "Keep" and "maintain" mean the same thing. See *Merriam-Webster's Collegiate Dictionary* (11th ed) (defining "keep" as "preserve, maintain," and defining "maintain" as "to keep in an existing state"). It was not objectively unreasonable for defendant's trial counsel to not object to the trial court's use of a synonym in the instructions that the court read to the jury.[5]

Second, defendant argues that her trial counsel was ineffective for not requesting a specific unanimity instruction for her cruelty to animal charges. No such instruction was necessary, however, because this is a "multitheory" case, not a "multiple acts" or "separate acts" case. *People v Lynn*, 223 Mich App 364, 367 n 1; 566 NW2d 45 (1997). "[I]t is well settled that," in cases like this "when a statute lists alternative means of committing an offense, which means in and of themselves do not constitute separate and distinct offenses, jury unanimity is not required with regard to the alternate theories." *People v Gadomski*, 232 Mich App 24, 31; 592 NW2d 75 (1998). See also *People v Johnson*, 187 Mich App 621, 629; 468 NW2d 307 (1991). The jury here had to agree that a single element (defendant's failure to provide adequate care) was present, and there were alternate theories under which that element could have been established. Accord *People v Parkinson*, 348 Mich App 565, 582-583; 19 NW3d 174 (2023) ("Based on a plain reading of the applicable statutory language, . . . a failure to provide any of the components comprising the provision of adequate care as defined by MCL 750.50(1)(a) constitutes a failure 'to provide an

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[3] MCL 750.50 was non-substantively amended by 2026 PA 87, so it now reads, " 'Adequate care' means the provision of sufficient food, water, shelter, sanitary conditions, exercise, and veterinary medical attention to maintain an animal in a state of good health."

[4] This instruction was consistent with the model jury instruction at the time, and the one still in effect after the statute was amended. See M Crim JI 33.2.

[5] Defendant also confusingly contends at one point that the trial court erred by not giving a definition of "abandon." MCL 750.50(2)(e) makes it a crime to "abandon" an animal in certain circumstances, but defendant was not charged under a theory that she abandoned her animals. We also note that, to the extent defendant contends that the trial court should have defined "abandon" as provided in MCL 750.50(1)(b), that subsection defines "animal," not "abandon." MCL 750.50 does not explicitly define "abandon."

animal with adequate care' within the meaning of MCL 750.50(2)(a)."). This type of case is "analytically distinct" from multiple-act or separate-acts cases, *People v Cooks*, 446 Mich 503, 515 n 16; 521 NW2d 275 (1994),[6] and no specific unanimity instruction is required in "multitheory" cases. "[I]t necessarily follows that defendant's claim of ineffective assistance of counsel must fail because defense counsel is not required to make a meritless request or objection." *People v Chelmicki*, 305 Mich App 58, 69; 850 NW2d 612 (2014).

III. DOUBLE JEOPARDY

Defendant contends that her convictions for MCL 750.50(4)(d) and MCL 750.50(4)(e) violate the Double Jeopardy Clauses of the Michigan and United States constitutions. See Const 1963, art 1, § 15; US Const, Am V.[7] We agree that, under the facts of this case, defendant's convictions for both offenses violate double jeopardy.

A. STANDARD OF REVIEW

A double-jeopardy challenge presents an issue of constitutional law, reviewed de novo. *People v Herron*, 464 Mich 593, 599; 628 NW2d 528 (2001).

B. ANALYSIS

"The prohibition against double jeopardy protects individuals in three ways: (1) it protects against a second prosecution for the same offense after acquittal, (2) it protects against a second prosecution for the same offense after conviction, and (3) it protects against multiple punishments for the same offense." *People v Wafer*, 509 Mich 31, 37-38; 983 NW2d 315 (2022). This case involves the third type of protection, referred to as the " 'multiple punishments' strand." *People v Miller*, 498 Mich 13, 17; 869 NW2d 204 (2015). The Legislature can "specifically authorize[] cumulative punishment," *People v Mitchell*, 456 Mich 693, 695; 575 NW2d 283 (1998) (quotation marks and citation omitted), but "where the Legislature expresses a clear intention in the plain language of a statute to prohibit multiple punishments, it will be a violation of the multiple punishments strand for a trial court to cumulatively punish a defendant for both offenses in a single trial," *Miller*, 498 Mich at 18.

The question before us is whether the Legislature intended that two convictions might result under MCL 750.50 under the circumstances presented by this case. To answer this question,

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[6] To demonstrate this distinction, *Cooks* was a separate-acts case because the defendant was charged with one count of criminal sexual conduct (CSC) and the complainant testified about three instances of sexual penetration, *Cooks*, 446 Mich at 505, while *Gadomski* was a multitheory case because the defendant was charged with a single count of CSC for a single sexual penetration, and the prosecution argued that this penetration was accompanied by one of three alternative aggravating circumstances, *Gadomski*, 232 Mich App at 31.

[7] The United States Supreme Court held that the federal double jeopardy clause applies to the states through the Fourteenth Amendment in *Benton v Maryland*, 395 US 784, 794; 89 S Ct 2056; 23 L Ed 2d 707 (1969).

we start with the circumstances of this case. Cheboygan County Animal Control executed a search warrant of defendant's home and found that the living conditions of defendant's animals were unacceptable—animal control believed that some of the animals lacked sufficient food, many of them lacked sufficient water, and most (if not all) lived in unsanitary conditions. The prosecution subsequently charged defendant with cruelty to 25 or more animals under MCL 750.50(4)(e) for her failure to provide adequate care to her livestock, and cruelty to 10-25 animals under MCL 750.50(4)(d) for her failure to provide adequate care for her dogs.

This leads us to the statute. Defendant contends that she only committed a single offense under MCL 750.50, so the prosecution could not charge her with two offenses. Addressing this argument requires us to decipher what constitutes a single offense under MCL 750.50, which in turn will tell us whether the circumstances of this case permitted two convictions under the statute.

This type of analysis is well-grounded in the so-called "unit of prosecution" cases like *People v Wakeford*, 418 Mich 95; 341 NW2d 68 (1983) and *People v Johnson*, 406 Mich 320; 279 NW2d 534 (1979). In *Wakeford*, the defendant was charged with two counts of armed robbery after he went to a market, robbed a cashier at gunpoint, then walked "about 20 feet" to the manager's office, and robbed the manager at gunpoint. *Wakeford*, 418 Mich at 101. Our Supreme Court held that the "unit of prosecution"—or "the gravamen of the offense"—for armed robbery was the victim, *id*. at 111, and because the defendant robbed two victims, his two convictions of armed robbery did not violate double jeopardy, *id*. at 114. In *Johnson*, the defendants were convicted of multiple counts of first-degree criminal sexual conduct (CSC-I) for a single act of penetration that was accompanied by multiple aggravating circumstances enumerated in the version of MCL 750.520b then in effect. *Johnson*, 406 Mich at 327. Our Supreme Court held that "the gravamen of MCL 750.520b is sexual penetration accomplished under any of the enumerated circumstances," so the defendants could only be charged with one count of CSC-I for their single act of sexual penetration, which could be pursued under multiple theories of aggravating circumstances. *Id*. at 330-331.

As the foregoing demonstrates, what constitutes a "single offense" under a statute is a matter of legislative intent that requires us to look to the pertinent statute's language. See *Wakeford*, 418 Mich at 111. MCL 750.50(2) provides that an owner of an animal is prohibited from doing certain things; as relevant here, it states that an owner "shall not . . . [f]ail to provide an animal with adequate care." MCL 750.50(2)(a). MCL 750.50(4) criminalizes violations of MCL 750.50(2), stating that "[a] person that violates subsection (2) is guilty of a crime as follows . . . ." The ensuing subsections then list tiers that, as relevant here, provide greater punishment for the more animals that are involved in the violation of MCL 750.50(2)—Subsection (4)(a) addresses a violation concerning 1 animal; Subsection (4)(b) addressees a violation concerning 2 or 3 animals; Subsection (4)(c) addresses a violation concerning 4 but less than 10 animals; Subsection (4)(d) addresses a violation concerning 10 or fewer than 25 animals; and Subsection (4)(e) addresses a violation concerning 25 or more animals. See MCL 750.50(4)(a) to (e). See also *Parkinson*, 348 Mich App at 576 (explaining that MCL 750.50(4) "provides enhanced penalties" for the number of animals involved in a violation of Subsection (2)).

It is thus clear that the "unit of prosecution" for a charge under MCL 750.50 is a defendant's conduct that violates MCL 750.50(2)—here, defendant's failure to provide her animals with adequate care as prohibited by MCL 750.50(2)(a). That the gravamen of an offense under MCL

750.50 is a defendant's conduct that violates Subsection (2) is confirmed not only by MCL 750.50(4)'s language that "[a] person that violates subsection (2) is guilty of a crime," but by the language in the MCL 750.50(4)'s subsections referencing prior convictions "under subsection (2)." MCL 750.50(4)(c) to (e). Both demonstrate that the conduct being criminalized is not the number of animals mistreated but the defendant's conduct that violates MCL 750.50(2).

The prosecution in this case presented evidence of only one instance in which defendant violated MCL 750.50(2): when Cheboygan County Animal Control executed a search warrant of defendant's home and found that defendants' animals were not being properly cared for. The more animals that defendant failed to provide with adequate care, the more she could be punished as provided in MCL 750.50(4). But she could not be subjected to multiple charges for the single instance in which she failed to provide her animals with adequate care. We accordingly agree with defendant that her multiple convictions for the single instance in which she was found to have failed to provide her animals with adequate care violated the multiple punishments strand of double jeopardy. Defendant's conviction under MCL 750.50(4)(d)—cruelty to 10-24 animals—is therefore vacated. See *People v Franklin*, 298 Mich App 539, 546; 828 NW2d 61 (2012) ("The appropriate remedy for multiple punishments in violation of the prohibition against double jeopardy is to vacate the lower charge and affirm the higher conviction.").

IV. SUFFICIENCY OF THE EVIDENCE

Defendant lastly argues that there was insufficient evidence to support her convictions. Because we are vacating defendant's conviction under MCL 750.50(4)(d), we only address whether there was sufficient evidence to support that defendant failed to provide adequate care to 25 or more animals in violation of MCL 750.50(2) and (4)(e), and we conclude that the evidence was sufficient to support that conviction.

A. STANDARD OF REVIEW

This Court reviews de novo a challenge to the sufficiency of the evidence supporting a conviction. *People v Savage*, 327 Mich App 604, 613; 935 NW2d 69 (2019).

B. ANALYSIS

When considering a sufficiency-of-the-evidence claim, this Court views the evidence in the light most favorable to the prosecution and asks whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Williams*, 294 Mich App 461, 471; 811 NW2d 88 (2011). Direct and circumstantial evidence, as well as reasonable inferences that may be drawn from that evidence, are considered to determine whether the evidence was sufficient to sustain the defendant's conviction. *People v Hardiman*, 466 Mich 417, 429; 646 NW2d 158 (2002). Viewing the evidence in the light most favorable to the prosecution requires the reviewing court to "draw all reasonable inferences and make credibility choices in support of the jury verdict." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). "It is for the trier of fact, not the appellate court, to determine what inferences may be fairly drawn from the evidence" and what weight, if any, those inferences should "be accorded." *Hardiman*, 466 Mich at 428.

To convict a defendant of failing to provide adequate care to 25 or more animals under MCL 750.50(2) and (4)(e), the prosecution must prove beyond a reasonable doubt that (1) the defendant owned, possessed, or had custody or charge of the animals; (2) the defendant failed to provide the animals with adequate care; and (3) the offense involved 25 or more animals. *Parkinson*, 348 Mich App at 577. "Adequate care" under the second element "means the provision of sufficient food, water, shelter,[8] sanitary conditions, exercise, and veterinary medical attention in order to maintain an animal in a state of good health." MCL 750.50(1)(a). Failure to provide at least one of these criteria is sufficient to establish the element of failure to provide adequate care. *Parkinson*, 348 Mich App at 584.

The prosecution at trial presented abundant evidence that defendant failed to provide adequate care to the 25 or more animals that she kept at her home. Dr. Burg testified that defendant's pigs and birds lacked food, that defendant's goats and horses only had access to unsanitary hay, and that a husky only had food that was frozen. Deputy Collins corroborated Dr. Burg's testimony about the birds lacking food, and she testified that two Labradors kept inside as well as the dogs kept outside did not have any food. There was also testimony that the dogs kept in crates, dogs kept outside, rabbit, pig, goats and horses, emu, and chickens and ducks either lacked water or only had access to water that was frozen. Regarding shelter, Dr. Burg and Deputy Collins both testified that the cages for the dogs were too small and that many of the dogs kept outside, the rabbit, and the pigs lacked bedding. Sanitation was also a problem: Deputy Collins testified that the house smelled of excrement, and there was testimony that the pens for the dogs outside, the enclosure for the goats and horses, and the chicken and duck coop all had excessive feces. The jury also saw photographs of the conditions the animals were kept in. Viewing this evidence in the light most favorable to the prosecution, a rational trier of fact could readily find beyond a reasonable doubt that defendant failed to provide more than 25 animals that she owned with adequate care in violation of MCL 750.50(2) and (4)(e).

Defendant on appeal fails to adequately explain why this evidence was insufficient to support her conviction; she merely minimizes and dismisses the prosecution's evidence while

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[8] MCL 750.50(1)(m) provides:

> "Shelter" means adequate protection from the elements and weather conditions suitable for the age, species, and physical condition of the animal so as to maintain the animal in a state of good health. Shelter, for livestock, includes structures or natural features such as trees or topography. Shelter, for a dog, includes 1 or more of the following:
>
> (*i*) The residence of the dog's owner or other individual.
>
> (*ii*) A doghouse that is an enclosed structure with a roof and of appropriate dimensions for the breed and size of the dog. The doghouse must have dry bedding when the outdoor temperature is or is predicted to drop below freezing.
>
> (*iii*) A structure, including a garage, barn, or shed, that is sufficiently insulated and ventilated to protect the dog from exposure to extreme temperatures or, if not sufficiently insulated and ventilated, contains a doghouse as provided under subparagraph (ii) that is accessible to the dog.

emphasizing the testimony of the defense witnesses. But the jury heard the prosecution's evidence and the testimony of the defense witnesses, and it apparently found the prosecution's evidence convincing and the testimony of the defense witnesses unconvincing. Defendant's argument essentially asks this Court to reweigh the evidence and reassess the witnesses' credibility, which is simply not this Court's role. See *ARM v KJL*, 342 Mich App 283, 295; 995 NW2d 361 (2022) (explaining in the context of a challenge to the sufficiency of the evidence that "[w]e do not reweigh the evidence or reassess witness credibility").

V. CONCLUSION

For the reasons explained in this opinion, we vacate defendant's conviction of cruelty to 10-24 animals under MCL 750.50(4)(d), but we affirm her conviction of cruelty to 25 or more animals under MCL 750.50(4)(e).

Vacated in part, affirmed in part.

/s/ Michael J. Kelly
/s/ Colleen A. O'Brien