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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED July 21, 2026 9:32 AM
v	No. 368146 Van Buren Circuit Court
CORDELL ERWIN DAWSON, Defendant-Appellant.	LC No. 2022-024123-FC

Before: MARIANI, P.J., and O'BRIEN and WALLACE, JJ.

PER CURIAM.

Defendant appeals as of right his jury-trial convictions of first-degree murder, MCL 750.316, and carrying a firearm during the commission of a felony (felony-firearm), MCL 750.227b. While retaining jurisdiction, we remand for an evidentiary hearing to develop three of defendant's claims of ineffective assistance of counsel.

I. BACKGROUND

This case arises from the fatal shooting of the victim during the early-morning hours of August 15, 2021. Defendant's defense at trial was that he was innocent and the shooting was perpetrated by Michael Johnson, also known as "Bruno." Michael was initially charged with murder and lying to the police as a codefendant in this case, but in exchange for his testimony, the prosecution agreed to allow Michael to plead guilty to lying to the police.

The shooting occurred at a concert and party that were scheduled to take place at the civic center in Covert Township on August 14, 2021. The concert featured local performers, including the victim. Michael testified that defendant called him on the day of the concert and said that if he saw the victim at the party, he was "gonna get on that." Michael interpreted this to mean that defendant intended to fight the victim. On the evening of the concert, defendant, Michael, and Michael's then-wife traveled to the civic center together in defendant's car. When they arrived, there was a large crowd of 70 to 80 people gathered in the street outside the center.

The party was attended by many other individuals associated with defendant and Michael, including Michael's cousins, Tiamir Johnson, Teaya Johnson, and Stanley Ky (also known as

Stanley Johnson). After the victim finished his performance, he walked outside the civic center onto the street. Michael and Tiamir were the only eyewitnesses to the shooting who testified, and both claimed that they saw defendant shoot the victim in the back multiple times.[1]

A jury eventually convicted defendant following a four-day trial. Afterwards, defendant moved for a new trial or a *Ginther*[2] hearing, arguing that his trial counsel was ineffective because he failed to (1) call as a witness Micaiah Dorsey, who claimed to have witnessed Michael shoot and kill the victim; (2) adequately investigate Michael because counsel did not uncover a domestic-violence incident that Michael committed against his then-wife related to her infidelity; (3) impeach Tiamir with a prior inconsistent statement in which Tiamir said that Michael committed the crime; and (4) understand the significance of the prosecution's ballistics evidence.

The trial court determined that defendant had not adequately explained why further factual development was necessary to resolve defendant's claims, so the court refused to grant defendant a *Ginther* hearing. On the merits, the trial court denied each of defendant's ineffective-assistance claims, concluding that (1) defendant failed to present evidence that Dorsey had told defendant's trial counsel that she witnessed Michael kill the victim despite talking with counsel before trial; (2) defendant failed to present evidence that defendant's trial counsel's pre-trial investigation into Michael was inadequate; (3) defendant failed to present evidence that Tiamir actually made a prior inconsistent statement that could have been used to impeach her; and (4) defendant's trial counsel's handling of the prosecution's ballistics evidence was reasonable under the circumstances.

This appeal followed.

II. STANDARD OF REVIEW

On appeal, defendant argues that the trial court erred by refusing to grant him a *Ginther* hearing or alternatively that the court erred by denying his claims of ineffective assistance on the merits. A trial court's decision whether to hold a *Ginther* hearing is reviewed for an abuse of discretion. *People v Unger*, 278 Mich App 210, 216-217; 749 NW2d 272 (2008). A court abuses its discretion when its ruling falls outside the range of reasonable and principled outcomes. *Id*. When no evidentiary hearing is held, "there are no factual findings to which this Court must defer," and our review is limited to determining as a matter of law whether any errors apparent on the record deprived defendant of his right to the effective assistance of counsel. *People v Haynes*, 338 Mich App 392, 429; 980 NW2d 66 (2021).

III. ANALYSIS

Defendant asked for a *Ginther* hearing to develop a factual record in support of his claims that he was entitled to a new trial because his trial counsel's performance was constitutionally

[1] At trial, Tiamir testified that she could not remember who shot the victim because she had issues with her memory, but she conceded that she identified defendant as the shooter at defendant's preliminary examination.

[2] *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973).

deficient. 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). If a defendant's ineffective assistance claim "depends on facts not of record," then the defendant may be entitled to an evidentiary hearing to develop a factual record to support his claim. *People v Ginther*, 390 Mich. 436, 443-444; 212 NW2d 922 (1973); *People v Hoag*, 460 Mich 1, 6; 594 NW2d 57 (1999). A defendant is not necessarily entitled to such a hearing, however. The defendant bears the burden of demonstrating that "further factual development would advance his claim." *People v Chapo*, 283 Mich App 360, 369; 770 NW2d 68 (2009).

We conclude that, here, defendant met this burden for three of his claims of ineffective assistance of counsel, and the trial court abused its discretion by denying defendant's request for a *Ginther* hearing to develop a factual record in support of those claims.

Starting with Dorsey's affidavit, it is undisputed that defendant's trial counsel was aware of Dorsey and initially intended to call her at defendant's trial—defendant's trial counsel at one point stated that Dorsey was under subpoena and "coming to testify." Counsel did not call Dorsey at trial, however, and the reason for this decision is not apparent from the record. In the affidavit that Dorsey signed following defendant's trial, she averred that she was at the civic center on the night of the shooting and "saw Michael Johnson shoot [the victim] four or five times." Dorsey further claimed that she heard Ky[3] say "that his cousin shot" the victim. The trial court concluded that defendant did not need an evidentiary hearing to develop this claim further because defendant had not come forward with evidence that Dorsey had disclosed to defendant's trial counsel before trial that she intended to testify that she witnessed Michael shoot the victim. While true, nothing established that Dorsey did *not* inform defendant's trial counsel of what she purportedly witnessed either. On balance, we believe that more factual development is needed to determine what Dorsey told defendant's trial counsel, so this issue is best resolved through an evidentiary hearing.

Turning to the issue related to impeaching Tiamir, we begin with how this issue arose during defendant's trial. During a sidebar before Tiamir was called to testify, defendant's trial counsel stated his intention to introduce an out-of-court statement made by Tiamir to Teaya that "Bruno had done it." Defendant's trial counsel also stated that Dorsey heard the statement, and counsel later seemed to suggest that Matyriah Frazier (another witness at defendant's trial) heard the statement as well. Defendant's trial counsel initially asserted that the statement could be substantively admitted as an excited utterance, but the prosecution noted that by asking Tiamir about the statement, it seemed like defendant's trial counsel was attempting to use the statement as impeachment material. To do that, the prosecution explained, counsel had to ask Tiamir about the statement and complete the impeachment later with testimony from the "person to whom the statement was made." Defendant's trial counsel seemed to agree that he sought to use the statement as impeachment material, saying that he would "ask the question" and be "stuck with"

[3] The affidavit spells Ky's name as "Ki" but is clearly referring to the same person because the affidavit clarifies that "Ki" was also known as "Stanley Johnson" and was Michael's cousin.

Tiamir's answer, then complete the impeachment later. Yet counsel never asked Tiamir about her alleged prior inconsistent statement, nor did counsel ask any other witness about that statement.

Prior inconsistent statements are admissible as impeachment evidence under MRE 613(b), which provides:

> Extrinsic evidence of a prior inconsistent statement by a witness is not admissible unless the witness is afforded an opportunity to explain or deny the same and the opposite party is afforded an opportunity to interrogate the witness thereon, or the interests of justice otherwise require.

To use this rule to introduce Tiamir's prior inconsistent statement, defendant's trial counsel needed to ask Tiamir about whether she made the prior statement, confirm that she made a later inconsistent statement, then allow Tiamir "to explain the inconsistency," and let the prosecution cross-examine Tiamir on the issue. *Barnett v Hidalgo*, 478 Mich 151, 165; 732 NW2d 472 (2007). If done properly, defendant's trial counsel could have then impeached Tiamir with extrinsic evidence in the form of testimony from any of the three individuals who purportedly heard Tiamir's prior statement.

On the record as it now stands, it is unclear why defendant's trial counsel did not attempt to impeach Tiamir with her prior inconsistent statement, and we can identify no reasonable strategic reason for this failure. Yet, as the trial court rightly noted, defendant has not come forward with any evidence tending to establish that Tiamir did, in fact, make a prior inconsistent statement. Given this, we do not know if defendant's trial counsel could have successfully impeached Tiamir, and we consequently have no basis to conclude that defendant was prejudiced by his trial counsel's failure to try.

Still, we conclude that defendant is entitled to an opportunity to further develop the factual basis for this claim. We know from the record that defendant's trial counsel *believed* (at least at one point) that he could impeach Tiamir with a prior inconsistent statement, but he ultimately failed to try. Defendant can explore the reason for this decision at a *Ginther* hearing. Also at the hearing, defendant will presumably present evidence establishing that Tiamir could have been successfully impeached with a prior inconsistent statement, if such evidence exists.

As for defendant's claim that his trial counsel failed to adequately investigate Michael, defendant contends that his trial counsel's investigation was incomplete because counsel was supposedly unaware of a March 19, 2022 police report. In that report, Michael was described as "beating" his then-wife and "yelling about how he knows she has another man." It was established at trial that Michael's wife had been unfaithful to him with the victim, but Michael denied that he would have responded violently to discovering his wife's infidelity. This, according to defendant, made the March 2022 police report indispensable because that report could have been used to both impeach Michael and buttress defendant's theory about Michael's motive to kill the victim. While this claim may not ordinarily warrant an evidentiary hearing, under the circumstances—particularly the fact that the case is already being remanded for a *Ginther* hearing—we conclude that defendant is entitled to a hearing to develop the factual basis for this claim as well. At the *Ginther* hearing, defendant will be able to ask his trial counsel about, among other things, the extent to which he investigated Michael, and the court can then determine whether counsel's

investigation was adequate and, if not, whether defendant was prejudiced by the inadequate investigation.

For defendant's final ineffective assistance claim, he contends that his trial counsel was ineffective because he failed to understand the significance of the prosecution's ballistics evidence. We conclude that the trial court did not abuse its discretion by denying defendant's request for an evidentiary hearing to develop this claim, and that defendant simply failed to establish even a possibility that his counsel was ineffective in his handling of the prosecution's ballistics evidence.

Defendant asserts that his trial counsel "did not understand the prosecution's evidence relating to ballistics," but the only support he provides for this assertion is his counsel's self-deprecating remarks on the topic. Defendant does not point to any question or line of questioning that his trial counsel asked the prosecution's ballistics expert suggesting that his counsel may not have understood the ballistics evidence or may have been unprepared to question the prosecution's expert about it. Nor does defendant identify any questions that his trial counsel should have asked the prosecution's ballistics expert but did not.

Defendant instead argues that his trial counsel failed to appreciate the significance of the fact that a pistol was found near the victim's body, and four spent shell casings from the scene were connected to that gun. This evidence was significant, defendant contends, because it suggests that the victim fired the pistol before being killed. And defendant asserts that his trial counsel was ineffective for not recognizing this possibility and having "[t]he gun examined for fingerprints or DNA" or having the victim's "hands swabbed for gunshot residue."

There are multiple problems with this argument. First, defendant does not contend—let alone present evidence to support—that the victim's fingerprints or DNA would have been found on the recovered pistol had it been tested for either. Defendant cannot establish that his trial counsel was ineffective for not testing the pistol for fingerprints or DNA if defendant cannot show that running these tests would have provided any information useful to defendant. Second, and more fundamentally, defendant never explains how he would have benefited if he had been able to establish that the victim fired the pistol. As the trial court noted, defendant's defense was actual innocence and that Michael was the shooter. Whether the victim used a firearm before being killed was wholly irrelevant to this defense. It was also eminently reasonable for defendant's trial counsel to not pursue an alternative theory of self-defense while pursuing a claim of actual innocence. Defendant had a strong case that Michael was the shooter, and it was objectively reasonable for defendant's trial counsel to not risk his credibility with the jury by arguing that his client did not shoot and kill the victim, but if he did, then it was done in self-defense.

Defendant also asserts that his trial counsel should have used the physical evidence of the firearm and shell casings near the victim's body to theorize that the victim fired a gun before being killed as part of counsel's efforts to undermine Michael's testimony. Defendant contends that if his trial counsel had urged jurors to conclude that the victim may have fired a gun before being killed, then it would have undermined Michael's testimony that defendant killed the victim by shooting him in the back. It is true that defendant's trial counsel did not attack Michael's credibility in this specific way, i.e., claiming that the ballistics evidence suggested that the victim may have shot a firearm before being killed. But defendant's trial counsel did highlight the ballistics evidence from the crime scene to question Michael's version of events, arguing:

> So, you've got multiple different kinds of guns in this Civic Center shootout. Multiple shells all over the place. Nineteen spent shell casings. But ya, we only have one shooter, one person, it's just him. Don't look at anything else. That's the complete, it's just, look at Cory Dawson and look at what Bruno said to us.

Defendant's trial counsel also attacked Michael's credibility in other ways, such as highlighting Michael's conviction for lying to police.

Decisions "concerning what evidence to highlight during closing argument" are quintessential matters of trial strategy. *People v Horn*, 279 Mich App 31, 39; 755 NW2d 212 (2008). Defendant's trial counsel highlighted the ballistics evidence during his closing argument as part of his efforts to undermine Michael's credibility. Defendant now contends that his trial counsel should have used the ballistics evidence to attack Michael's credibility in a slightly different way. But how defendant's trial counsel used the ballistics evidence to attack Michael's credibility during closing was clearly a matter of trial strategy, see *id*., and defendant puts forth no argument to overcome the "strong presumption" that counsel's chosen strategy was "sound," *Trakhtenberg*, 493 Mich at 52. There is no need to remand this claim for an evidentiary hearing because, in light of defendant's arguments (or lack thereof), no amount of factual development could entitle defendant to relief.

For the reasons explained, however, we conclude that defendant is entitled to an evidentiary hearing on the other three ineffective assistance claims. We accordingly remand for the trial court to conduct a *Ginther* hearing to address whether defendant's trial counsel provided ineffective assistance (1) when he failed to call Dorsey as a witness, (2) when he failed to impeach Tiamir with a prior inconsistent statement, and (3) when counsel's investigation of Michael did not uncover the March 19, 2022 police report.

Remanded for further proceedings. We retain jurisdiction.

/s/ Philip P. Mariani
/s/ Colleen A. O'Brien
/s/ Randy J. Wallace

Court of Appeals, State of Michigan

ORDER

PEOPLE OF MI V CORDELL ERWIN DAWSON

Docket No. 368146

LC No. 2022-024123-FC

Philip P. Mariani
Presiding Judge

Colleen A. O'Brien

Randy J. Wallace
Judges

For the reasons stated in the opinion issued with this order, we REMAND this case for further proceedings. We retain jurisdiction. After the remand proceedings conclude, we will review the decisions that the trial court made during those proceedings and consider any remaining issues in this appeal. Any challenges to the trial court's decisions on remand must be raised in this appeal. Therefore, the parties and the trial court must not initiate a new appeal from an order entered on remand within the scope of this appeal. The Clerk of the Court is directed to reject the initiation of a new appeal from such an order.

Appellant must initiate the proceedings on remand within 28 days of the Clerk's certification of this order, and the trial court must prioritize this matter until the proceedings are concluded. As stated in the accompanying opinion, this case is remanded for the trial court to conduct a *Ginther* hearing to address whether defendant's trial counsel provided ineffective assistance (1) when he failed to call Dorsey as a witness, (2) when he failed to impeach Tiamir with a prior inconsistent statement, and (3) when counsel's investigation of Michael did not uncover the March 19, 2022 police report. The proceedings on remand are limited to these issues.

The parties must serve copies of their filings in the trial court on this Court. Appellant must file with this Court copies of all orders entered on remand within seven days of entry.

Appellant must ensure the transcript of all proceedings on remand is filed in the trial court and this Court within 21 days after completion of the proceedings.

Presiding Judge

A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

July 21, 2026
Date

Chief Clerk