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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v ADAM RICHARD WILLIAMS, Defendant-Appellant.	UNPUBLISHED September 15, 2026 10:36 AM No. 372121 Oakland Circuit Court LC No. 2023-286119-FC

Before: LETICA, P.J., and O'BRIEN and REDFORD, JJ.

PER CURIAM.

Defendant, Adam Richard Williams, appeals as of right his jury-trial convictions of first-degree home invasion, MCL 750,110a(2), four counts of first-degree criminal sexual conduct (CSC-1), MCL 750.520b, and one count of domestic violence, MCL 750.81(2). He was sentenced to concurrent terms of 8 to 20 years' imprisonment for the home invasion conviction, 26 to 50 years' imprisonment for each CSC-1 conviction, and 93 days in jail for the domestic violence conviction. We affirm defendant's convictions and sentences but remand for ministerial task of correcting the Sentencing Information Report (SIR) as to Offense Variable (OV) 12.

I. FACTUAL AND PROCEDURAL HISTORY

Defendant's convictions arise out of his four-year dating relationship with the victim. The victim testified that the couple were in the process of ending their relationship when defendant came to her home to collect his things and then sexually assaulted her. The victim also asserted that defendant entered her home without permission. At trial, the victim was permitted to testify to prior acts of forced sex and domestic violence by defendant that occurred when the couple argued. Defendant claimed that the sexual acts were consensual. The jury convicted defendant as charged.

II. SUFFICIENCY OF THE EVIDENCE – HOME INVASION

Defendant alleges that there was insufficient evidence to support his conviction of first-degree home invasion. We disagree.

To support a valid criminal conviction, there must be proof beyond a reasonable doubt of the essential elements of the crime. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994). The offense of first-degree home invasion can occur in different ways and has alternative elements. *People v Wilder*, 485 Mich 35, 43; 780 NW2d 265 (2010). To establish first-degree home invasion, the prosecutor must demonstrate that the defendant (1) "breaks and enters a dwelling" or "enters a dwelling without permission," (2) "intends when entering to commit a felony, larceny, or assault in the dwelling" or "at any time while entering, present in, or exiting the dwelling commits a felony, larceny, or assault," and (3) "is armed with a dangerous weapon" or "[a]nother person is lawfully present in the dwelling." *Id*.

A challenge to the sufficiency of the evidence is reviewed de novo. *People v Montague*, 338 Mich App 29, 44; 979 NW2d 406 (2021). "When reviewing a defendant's challenge to the sufficiency of the evidence, we review the evidence in a light most favorable to the prosecutor to determine whether any trier of fact could find the essential elements of the crime were proven beyond a reasonable doubt." *Williams*, 294 Mich App 461, 471; 211 NW2d 88 (2011) (quotation marks and citation omitted). The review of the sufficiency of the evidence is deferential. *People v Oros*, 502 Mich 229, 239; 917 NW2d 559 (2018). The reviewing court must draw all reasonable inferences and make credibility determinations in accord with the jury verdict. *Id*. "The scope of review is the same whether the evidence is direct or circumstantial." *Id*. (quotation marks and citation omitted). The elements of a crime may be proven by circumstantial evidence and reasonable inferences arising therefrom. *Id*. The prosecutor is "not obligated to disprove every reasonable theory consistent with innocence to discharge its responsibility; it need only convince the jury in the face of whatever contradictory evidence the defendant may provide." *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000).

Defendant only challenges the sufficiency of the proofs addressing the first element of home invasion. Specifically, defendant contends that the prosecution failed to present certain and unambiguous evidence that he entered the victim's home without permission when the victim told defendant to come to her home to collect his belongings.

In this case, the victim testified regarding her relationship with defendant. Although defendant gave the victim a key to his apartment, the couple spent the majority of their time at the condominium the victim rented and shared with her teenage son, CM. The victim testified that she opened the door for defendant when she invited him over. In text messages, the victim stated that she would drop off defendant's belongings at his apartment. Later, however, the victim texted defendant that his belongings were outside her residence.[1] The victim also requested that, if defendant had a key to her place, that he return it. When the police searched defendant's apartment,

[1] Defendant testified that not all of his belongings were outside; however, the victim did not testify that she only packed *some* of defendant's property with the intention that he enter her home and remove the rest.

they located a key to the victim's condominium.[2] The victim also told defendant that she was blocking him on her phone.

Defendant contends that the prosecutor failed to present certain and unambiguous evidence that he entered the victim's home without permission in light of the fact that she requested that he come over and collect his things. But the prosecution is not obligated to disprove every reasonable theory consistent with innocence. *Id*. Moreover, if there was a lack of clarity to defendant regarding the permission to enter the victim's home after the breakup, the victim testified that, after defendant flung her bedroom door open, she cursed at him to leave. The victim testified that defendant did not leave, but taunted and threatened her with a baseball bat. And on cross-examination, defendant testified that he was not invited into the victim's home on July 30, 2023. Additionally, the victim testified that she placed the meat that defendant had stored in her freezer with his items. This action seemingly indicated an intent not to permit defendant inside her home to retrieve any remaining belongings. Indeed, defendant acknowledged that the victim did not invite him into her home that day, and he used a key. While defendant claimed that the victim gave him a key, she denied doing so. The jury's verdict, that defendant was guilty of first-degree home invasion, reflected that it did not find defendant's version of events credible. And, if believed, the victim's trial testimony allowed the jury to conclude, beyond a reasonable doubt, that defendant's entered the victim's home without her permission. Thus, there was sufficient evidence to support the first-degree home invasion conviction.

III. ADMISSION OF PRIOR ACTS EVIDENCE UNDER MCL 768.27b

Next, defendant contends that the trial court improperly admitted prior acts evidence under MCL 768.27b. We disagree.

When preserved, "we review a trial court's decision to admit evidence for an abuse of discretion, but review de novo preliminary questions of law, such as whether a rule of evidence precludes admissibility." *People v Chelmicki*, 305 Mich App 58, 62; 850 NW2d 612 (2014). A decision on a close evidentiary question generally cannot constitute an abuse of discretion. *People v Thorpe*, 504 Mich 230, 252; 934 NW2d 693 (2019). Under MRE 103(a), "[a] party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party[.]"

In the trial court, the prosecutor alleged that the prior acts evidence was probative to show defendant's propensity to commit domestic violence against the victim and showed his common scheme, plan, or system in attempting to cure the wrongs in his relationship by forcing sexual contact on the victim. Further, the prosecutor asserted that the probative value of this evidence was not outweighed by the danger of unfair prejudice and that defendant's not-guilty plea required the prosecutor to prove all offense elements.

[2] The victim also had two garage door openers. At some point, the victim gave defendant one of them; however, the victim later retrieved her garage door opener from defendant and gave it to her daughter.

The prosecutor briefly summarized the prior acts evidence. On December 31, 2021, after the victim believed that defendant received a phone call from a woman at midnight, she reached for his phone. Defendant grabbed it back, slammed the victim against a wall, and forced sexual intercourse upon her. On June 30, 2022, the victim drove home from a bar leaving defendant behind. Defendant came to the victim's home yelling, grabbed her by the neck and slammed her against a wall. In October 2022, the victim told defendant that they should spend time apart. In response, defendant forced sexual intercourse on the victim. Defendant's actions angered the victim, and she demanded her garage door opener back. In March 2023, defendant came to the victim's home, argued with her, dragged her, and threw her on her bed. Finally, on July 21, 2023, after an argument, defendant put a pillow over the victim's face so she could not breathe. Defendant then had sex with her against her will. The next week, defendant committed the offenses that gave rise to the criminal charges.

Defendant opposed the admission of this evidence. He claimed that the probative value was outweighed by the danger of unfair prejudice, the evidence was irrelevant to the charged offenses, and this evidence was not disclosed by the victim for months.

The trial court issued a written opinion granting the prosecutor's motion. This opinion pertinently stated:

> The prosecution argues that other acts listed within their brief are probative because they contribute to proving the propensity of Defendant to commit offenses involving domestic violence against [the victim]. Additionally, the prosecution argues that the other acts demonstrate Defendant's common scheme, plan, or "system in his attempts to 'cure' current wrongs in his relationship with [the victim] by forcing sexual contact on her."
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> On the other hand, Defendant argues that the other listed acts should be excluded under MRE 403 because the evidence is unfairly prejudicial and would confuse the issues before the jury. Further, Defendant argues that evidence would inflame and mislead the jury as it determines the truth of the allegations being tried. Lastly, Defendant argues that there is no corroborating evidence that supports paragraphs (a), (b), (c), or (d) set forth in the prosecution's brief.
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> * * *
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> The Michigan Court of Appeals has found that prior bad-acts evidence of domestic violence can be admitted at trial because "a full and complete picture of a defendant's history tends to shed light on the likelihood that a given crime was committed." *People v Cameron*, 291 Mich App 599, 611 (2011). As the prosecution cited, the *Cameron* court stated,
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> > A trial court admits relevant evidence to provide the trier of fact with as much useful information as possible. Here, the trial court found that [the defendant's] prior bad acts were relevant and therefore admissible to establish [the victim's] credibility. The trial court also found that [the defendant's] actions were relevant to show that he

> acted violently toward [the victim] and that his actions were not 'accidental' at the time of the incident. Additionally, the evidence of [the defendant's] actions on six separate occasions with [the victim] and on three separate occasions with [the other victim] demonstrated [the defendant's] propensity to commit acts of violence against women who were or had been romantically involved with him. *Id*. at 612.

The Court has reviewed the proposed other acts within the prosecution's brief. First, the Court finds that the prosecution timely filed its notice pursuant to MCL 768.27b. Here, the prosecution intends on offering the other acts to show a common scheme, plan or system of Defendant turning conflict and physical assault against the alleged victim into forced sexual encounters wherein Defendant forces unwanted sexual contact onto the alleged victim to pacify her and mask his earlier criminal behavior. As Defendant argues within his brief, this case will be determined based upon the credibility of witnesses. Additionally, as the Defendant argues, "the complainant's claims will be the subject of a thorough cross examination when she gives her testimony during the trial of this matter."

Here, the Court finds that the other acts are admissible pursuant to MCL 768.27b and MRE 403. The other acts evidence is admissible to show common scheme, plan, and system. Like *Cameron*, the evidence is highly probative to establish the alleged victim's credibility. The probative value of the evidence is not outweighed by the danger of unfair prejudice, nor does it mislead the jury. The Court finds that the evidence is prejudicial to Defendant – but it is not unfairly prejudicial. The Court will give a limiting instruction to alleviate any concern of inflaming the jury, unfair prejudice, etc., so that the jury only accepts the evidence for an appropriate purpose.

MCL 768.27b addresses admissibility of other acts of domestic violence, and provides in pertinent part:

> (1) Except as provided in subsection (4) [addressing offenses more than 10 years old], in a criminal action in which the defendant is accused of an offense involving domestic violence, sexual assault, or a violation of chapter LXVII or chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.448 to 750.462 and 750.462a to 750.462h, evidence of the defendant's commission of other acts of domestic violence, sexual assault, or acts constituting violations of chapter LXVII or chapter LXVIIA of the Michigan penal code, 1931 PA 328, MCL 750.448 to 750.462 and 750.462a to 750.462h, is admissible for any purpose for which it is relevant, if it is not otherwise excluded under Michigan rule of evidence 403.
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> * * *
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> (3) This section does not limit or preclude the admission or consideration of evidence under any other statute, including, but not limited to, under section 27a of this chapter, rule of evidence, or case law.

* * *

(6) As used in this section:

(a) "Domestic violence" or "offense involving domestic violence" means an occurrence of 1 or more of the following acts by a person that is not an act of self-defense:

(*i*) Causing or attempting to cause physical or mental harm to a family or household member.

(*ii*) Placing a family or household member in fear of physical or mental harm.

(*iii*) Causing or attempting to cause a family or household member to engage in involuntary sexual activity by force, threat of force, or duress.

(*iv*) Engaging in activity toward a family or household member that would cause a reasonable individual to feel terrorized, frightened, intimidated, threatened, harassed, or molested.

(b) "Family or household member" means any of the following:

(*i*) A spouse or former spouse.

(*ii*) An individual with whom the person resides or has resided.

(*iii*) An individual with whom the person has or has had a child in common.

(*iv*) An individual with whom the person has or has had a dating relationship. As used in this subparagraph, "dating relationship" means frequent, intimate associations primarily characterized by the expectation of affectional involvement. This term does not include a casual relationship or an ordinary fraternization between 2 individuals in a business or social context.

(c) "Sexual assault" means a listed offense as that term is defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(7) This section applies to trials and evidentiary hearings commenced or in progress on or after May 1, 2006.

MRE 403 reads:

The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following: unfair prejudice,

confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence.

In *People v Berklund*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket No. 367568), the defendant, a married man, had a sexual relationship with the victim when she resided with the defendant and his wife because of the couple's fertility issues. After an argument with the defendant's wife, the victim moved out of the home. A couple of weeks later, the defendant sought to meet with the victim and smoke marijuana. At the meetup location, the defendant took the victim into a narrowly wooded area. There, the defendant choked and tied up the victim. He assaulted the victim and covered her mouth with tape to stop her screaming. After the victim urinated, the defendant smashed her phone, poured water on it, untied the victim, and left the area. *Id*. at ___, slip op at 2.

The prosecutor sought to admit evidence of a prior sexual assault under MCL 768.27b. Specifically, years earlier, the defendant raped a 14-year-old girl at knifepoint in a secluded wooded area after the girl repeatedly told him "no." The defendant objected to the relevancy of a sexual assault conviction to his domestic-violence related charges and claimed the probative value of the evidence was substantially outweighed by the danger of unfair prejudice. This Court affirmed the trial court's determination that the evidence was admissible. *Id*.

This Court held that the plain language of MCL 768.27b did not require that the prior act mirror the defendant's current charged offense. Therefore, evidence of a prior sexual assault could be admitted in a trial for domestic violence offenses. *Id*. at ___, slip op at 4-7. The *Berklund* Court also rejected the contention that the prior sexual assault was irrelevant to the current domestic violence offenses. It was concluded that MCL 768.27b was an exception to the bar on propensity evidence. By enacting this statute, the Legislature determined that a jury should fully and completely review a defendant's history when accusations of domestic violence or sexual assault were raised because that history shed light on the occurrence or commission of a given crime. Further, the evidence was admissible to show a defendant's propensity or common scheme or plan to commit violent acts against women. And when evaluating the probative value and prejudicial effect of the evidence under MRE 403, courts were to favor its admission as having probative value. *Id*. at ___, slip op at 7-9. The *Berklund* Court also adopted nonexhaustive factors to be considered:

> (1) the dissimilarity between the other acts and the charged crime, (2) the temporal proximity of the other acts to the charged crime, (3) the infrequency of the other acts, (4) the presence of intervening acts, (5) the lack of reliability of the evidence supporting the occurrence of the other acts, and (6) the lack of need for evidence beyond the complainant's and the defendant's testimony. This list of considerations is meant to be illustrative rather than exhaustive. [*People v Watkins*, 491 Mich 450, 487-488; 818 NW2d 296 (2012).]

In light of *Berklund* and MCL 768.27b, we conclude that the trial court did not abuse its discretion by admitting the prior acts evidence of forced sex or assault committed by defendant against the victim. Defendant and the victim had a four-year "on and off" relationship. As the relationship progressed, the couple fought over defendant's infidelity. When the victim took steps to end the relationship, defendant would place his hands on the victim or strike her and force sexual

acts upon her. Although defendant asserted that the actions were consensual, the victim testified they were not. Additionally, as the duration of the relationship progressed, the victim testified that the level of violence began to increase. Specifically, defendant would get violent with the victim by choking her neck and striking her in the face leaving visible bruising and then force sexual acts upon her. The prior acts under MCL 768.27b and the charged CSC crimes were similar. The prior acts occurred during the four-year relationship, and the most recent uncharged act occurred approximately 10 days before the charged offenses. There was reliable evidence to support the occurrence of the prior acts evidence. Specifically, the couple communicated through text messages regarding defendant's infidelity, the breakup of the relationship, and defendant's apologies to the victim. While the victim claimed that defendant apologized for physical abuse, defendant testified that he apologized for verbal abuse. Nor was the probative value of this evidence substantially outweighed by its prejudicial effect. MRE 403. This claim of error does not entitle defendant to appellate relief.

IV. OFFENSE VARIABLE SCORING

Defendant contends that the trial court erred in scoring OVs 7, 8, and 12, but the change in score does not entitle him to resentencing. We agree in part that OV 12 was misscored and remand for the ministerial task of correction of the SIR.

Because defendant's sentencing guidelines' challenges were preserved, the trial court's findings of fact are reviewed for clear error and must be supported by a preponderance of the evidence. *People v Hardy*, 494 Mich 430, 438; 835 NW2d 340 (2013); *People v Rhodes (On Remand)*, 305 Mich App 85, 88; 849 NW2d 417 (2014). "Clear error is present when the reviewing court is left with a definite and firm conviction that an error occurred." *People v Fawaz*, 299 Mich App 55, 60; 829 NW2d 259 (2012) (quotation marks and citation omitted). On the other hand, we review de novo "[w]hether the facts, as found, are adequate to satisfy the scoring conditions prescribed by statute[.]" *Hardy*, 494 Mich at 438; see also *Rhodes*, 305 Mich at 88. When calculating the sentencing guidelines, a court may consider all record evidence, including the contents of a PSIR, plea admissions, and preliminary examination testimony. *People v Teike*, 348 Mich App 520, 527; 19 NW3 733 (2023); *People v Johnson*, 298 Mich App 128, 131; 826 NW2d 170 (2012). Additionally, the trial court may draw reasonable inferences arising from the record evidence. *People v Montague*, 338 Mich App 29, 55; 979 NW2d 406 (2021).

In his memorandum and at sentencing, defendant argued that a score of 50 points for OV 7 was unwarranted because he was only charged with a 93-day misdemeanor. In response, the prosecutor argued that caselaw addressed situations where OV 7 was scored at 50 points to reflect the psychological and emotional injury, not merely physical abuse of a victim, such as the sound of racking a shotgun during a carjacking. Here, it was asserted that the score was supported by defendant's action in bringing a baseball bat into the victim's home to terrorize her with it. In rebuttal, defendant argued that there was little evidence to support the presence of a bat because defendant was not seen carrying it into the home.

The trial court found that OV 7 was appropriately scored at 50 points:

> [T]he Court finds that Defendant used the bat in a way to substantially increase [the victim's] fear and anxiety suffered during the offense. Specifically,

> Defendant before the sexual assault picked up the baseball bat, shoved it in her face, and made her count the notches on the bat, indicating that the notches were people who fucked with him before, and that the marks at the end of the bat were teeth marks. He then took the bat, dragged it across the room. Thereafter, he made [the victim] read aloud [a] Valentine's Day card. The Court finds that all of these actions taken together are similarly egregious conduct designed to substantially increase the fear and anxiety [the victim] suffered during the offense. This conduct goes beyond the minimum necessary to commit the sexual conduct. Therefore, the Court finds that OV 7 is properly scored at 50 points, respectfully over the objection of defense.

OV 7 addresses aggravated physical abuse. MCL 777.37(1). Fifty points are to be scored when "[a] victim was treated with sadism, torture, excessive brutality, or similarly egregious conduct designed to substantially increase the fear and anxiety a victim suffered during the offense." MCL 777.37(1)(a). OV 7 addresses particularly heinous instances when the defendant acted to increase victim fear by a considerable amount. *People v Rodriguez*, 327 Mich App 573, 577-578; 935 NW2d 51 (2019). In making this determination, the court must consider whether the defendant engaged in conduct above the minimum required to commit the offense and if it was deliberately intended to substantially increase the victim's fear or anxiety. *Id*. at 579. In *Rodriguez*, this Court concluded that the use of a tire iron during the commission of a robbery was intended to considerably increase the victim's fear or anxiety. But assessing 50 points for OV 7 was not supported because it was not "similarly egregious conduct" akin to sadism, torture, or excessive brutality. *Id*. at 581.

In *People v Rosa*, 322 Mich App 726, 743; 913 NW2d 392 (2018), this Court defined "excessive brutality" to mean "savagery or cruelty beyond even the usual brutality of a crime." (quotation marks and citation omitted). The *Rosa* Court concluded that the record evidence supported the trial court's determination that 50 points should be assigned for OV 7. Factually, the defendant attempted to strangle or suffocate the victim three times. And at the outset of the assault, the victim's five-year-old child was asleep next to her. When the child awoke during the assault, the defendant told the child to say goodbye to the victim and that the child would be cared for by her grandmother. Additionally, the defendant intended to sexually assault the victim during the strangulation. Under the circumstances, this Court affirmed the trial court's OV 7 score because a preponderance of the evidence demonstrated that the defendant's conduct was excessively brutal, went beyond the action required to complete an assault with the intent to kill the victim, and was designed to substantially increase the victim's fear and anxiety. *Id*.

Here, the victim testified that defendant entered her condominium, came into her bedroom with a baseball bat, and shoved the bat in her face. Defendant advised that the notches on the bat were teeth marks to reflect the people that had "messed" with defendant. As in *Rosa*, the conduct was excessively brutal and designed to substantially increase the victim's fear and anxiety. Although defendant asserts that there is limited evidence of defendant's possession of the baseball bat because it was not observed on the video, the victim testified that defendant brought it with him into her condominium. And the police located a baseball bat during a search of defendant's vehicle. The trial court found that the use of the baseball bat occurred despite the lack of video evidence of defendant carrying it into the victim's home. The trial court's score was supported by a preponderance of the evidence.

Defendant claimed that he engaged in consensual sexual acts with the victim. The jury's verdict reflects that defendant's version of events was rejected. Moreover, the lower court presided over the trial and found that OV 7 was established by a preponderance of the evidence. This challenge is without merit.

Next, defendant contends that the trial court improperly scored OV 8, addressing asportation, at 15 points. Although the MDOC recommended that score, defendant challenged it, and the trial court sustained defendant's request and scored it at zero points. The trial court stated:

> With that, the Court finds that OV 8 is properly scored at zero points. 15 points is proper where, quote, a victim was escorted to another place of greater danger or to a situation of greater danger or was held captive beyond the time necessary to commit the offense.
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> The Court finds that [the victim] was held . . . not held captive beyond the time necessary to commit the offense. I will note that there is simply no evidence that she was held captive, although she could not move, and that she was, for lack of a better term, stuck for a while. The evidence doesn't suggest that she's necessarily held captive, and so that's the language that the Court is focusing on. And it's clear that she was not escorted to another place of danger, greater danger, or to a situation of greater danger. And so the Court finds that the People have respectfully not met their burden on OV 8 by preponderance of the evidence, and therefore, the Court will score OV 8 at zero points over the objection of the prosecution.

In light of the trial court's ruling granting defendant's requested relief, this aspect of defendant's issue is not entitled to further relief. *People v Miller (After Remand)*, 211 Mich App 30, 42-43; 535 NW2d 518 (1995).

Lastly, defendant objected to the initial 5-point assessment for OV 12. OV 12 addresses contemporaneous felonious criminal acts. MCL 777.42(1). To be contemporaneous, a felonious criminal act must occur within 24 hours of the sentencing offense and not result in a separate conviction. MCL 777.42(2)(a)(*i*) and (*ii*). Ten points for OV 12 may be scored when "[t]wo contemporaneous felonious criminal acts involving crimes against a person were committed." MCL 777.42(1)(b). But if only "[o]ne contemporaneous felonious criminal act involving a crime against a person was committed," the sentencing court may assess 5 points for OV 12. MCL 777.42(1)(d).

Although defendant objected to the probation department's recommendation that 5 points be assessed for OV 12, the prosecutor requested a score of 10 points, asserting that felonious

assault, MCL 750.82,[3] with a baseball bat[4] and unlawful imprisonment, MCL 750.349b,[5] occurred. Defendant asserted that the warrant writer was aware of the factual circumstances and did not include those charges to be presented to a jury and subjected to proof beyond a reasonable doubt. Defendant asked the sentencing court to assess zero points for OV 12. In contrast, the prosecutor argued that a felonious assault occurred when defendant shoved the bat at the victim, explained the notches as teeth marks, and beat her about the head with his fists. Additionally, the prosecutor asserted that defendant restrained the victim by committing the sexual assaults, closing the bedroom door, and keeping the bat next to him. Moreover, the failure to include other applicable charges was not dispositive of this score. In rebuttal, defendant argued that the CSC charges were presented under different theories including the use of a weapon. Therefore, a score for felonious assault implicated double jeopardy.

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[3] MCL 750.82 provides that "a person who assaults another person with a gun, revolver, pistol, knife, iron bar, club, brass knuckles, or other dangerous weapon without intending to commit murder or to inflict great bodily harm less than murder is guilty of a felony. . . ."

[4] Our Supreme Court has held that there is sufficient evidence to sustain a defendant's conviction for felonious assault after the defendant broke into a house and "threatened to strike the occupants with what appeared to be a small bat or club, and thus attempted 'to commit a battery or [committed] an unlawful act that place[d] another in reasonable apprehension of receiving an immediate battery.' " *People v Geierman*, 493 Mich 934 (2013), quoting *People v Nickens*, 470 Mich 622, 628; 685 NW2d 657 (2004).

[5] In pertinent part, MCL 750.349b provides:

> (1) A person commits the crime of unlawful imprisonment if he or she knowingly restrains another person under any of the following circumstances:
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> (a) The person is restrained by means of a weapon or dangerous instrument.
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> (b) The restrained person was secretly confined.
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> (c) The person was restrained to facilitate the commission of another felony or to facilitate flight after commission of another felony.
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> * * *
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> (3) As used in this section:
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> (a) "Restrain" means to forcibly restrict a person's movements or to forcibly confine the person so as to interfere with that person's liberty without that person's consent or without lawful authority. The restraint does not have to exist for any particular length of time and may be related or incidental to the commission of other criminal acts.
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> (b) "Secretly confined" means either of the following:
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> (*i*) To keep the confinement of the restrained person a secret.
>
> (*ii*) To keep the location of the restrained person a secret.

The trial court concluded that a 10-point score for OV 12 was appropriate:

> With that, the Court finds that OV 12 is properly scored at 10 points. 10 points is appropriate where, quote, two contemporaneous felonious criminal acts involving crimes against a person were committed, end quote. The prosecution argues that Defendant committed the uncharged acts of felonious assault and unlawful imprisonment, this Court agrees.
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> There was substantial and compelling evidence at trial that Defendant held the baseball bat up to [the victim's] face and threatened her with it. She described how close Defendant was with the bat. It is clear that Defendant used the bat in a way that would cause a reasonable person to fear or apprehend an immediate battery. A bat is certainly a dangerous weapon. Therefore, Defendant could have been charged with felonious assault.
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> Further, he could have also been charged with unlawful imprisonment, where after the home invasion and sexual assaults, Defendant left out of [the victim's] home, made [a] phone call to a friend and that he was supposed to be helping, and [the victim] testified that he returned to her bedroom, closed the door, and sat on the ground in front of the door for hours rambling on with the baseball bat leaned against the dresser next to him.
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> The Court finds this is different from the issue of being held captive as raised in OV 8 because it was being raised captive beyond the time necessary to commit the offense. Here, the timing issue is for not [sic]. Here, the issue is that he held a weapon and kept her . . . potentially from leaving the bedroom while sitting in front of her. And so certainly by a preponderance of the evidence, the prosecution has met their burden, and so over the objection of defense, the Court will score OV 12 at 10 points.

In *People v Carter*, 503 Mich 221, 224; 931 NW2d 566 (2019), the defendant and the victim lived in the same apartment complex and had a verbal confrontation outside the victim's apartment. The victim shared the apartment with a young woman and infant child. Later that evening, the defendant appeared at the victim's apartment door, pretended to be a maintenance worker, and sought to lure the victim outside. The victim looked outside the door's peephole and saw the defendant wearing a ski mask and holding a firearm. The victim refused to allow the defendant to enter, and the defendant fired three shots at chest level through the apartment door. One of the three shots punctured the air mattress on which the infant slept. *Id*.

The defendant was convicted of assault with intent to commit great bodily harm less than murder (AWIGBH), MCL 750.84, felon in possession of a firearm, MCL 750.224f, intentional discharge of a firearm at a dwelling, MCL 750.234b, felonious assault, MCL 750.82, and carrying or possession a firearm when committing or attempting to commit a felony, second offense, MCL 750.227b. The defendant did not initially object to the scoring of the sentencing guidelines. *Id*.

Following a motion to remand to challenge the scoring of the sentencing guidelines, the prosecutor conceded error in part. But the prosecution continued to allege 10 points should be assessed for OV 12. The *Carter* Court noted that a felonious criminal act was contemporaneous if the "act" occurred within 24 hours of the "sentencing offense" and the "act has not and will not result in a separate conviction." MCL 777.42(2)(a). The prosecutor argued that each gunshot constituted a separate act, and the sentencing offense of AWIGBH was premised on a single shot. The parties also challenged whether the separate discharge of the defendant's firearm could have constituted a different assaultive offense. The *Carter* Court determined that OV 12 was not scored contingent on whether a defendant could have been charged with other offenses for the same conduct. Rather, the court must determine whether the "sentencing offense" can be separated from other distinct "acts." *Id*. at 225-227.

When examining OVs, a "sentencing offense" is defined as "the crime of which the defendant has been convicted and for which he or she is being sentenced." In *Carter*, the primary sentencing offense was AWIGBH. Thus, the record was examined to determine whether the AWIGBH was established premised on three gunshots or only one. Pertinently, the prosecutor in closing, argued that shooting three times through a door at chest level reflected an attempt to cause physical injury to another person because shooting three times would likely injure a person. *Id*. at 227-228. The *Carter* Court held:

> Given that, in this case, the prosecution relied on all three gunshots as evidence of defendant's intent to commit murder or inflict great bodily harm, a finding that two of the gunshots were not part of the sentencing offense cannot be supported by the evidence. Consequently, it was inappropriate for the Court of Appeals to distinguish two gunshots from the conduct constituting the "sentencing offense."
>
> The prosecution insists that the 10-point assessment under OV 12 remains appropriate because defendant could have been charged with separate offenses relating to the young woman or her infant child. It might be true that defendant could have been charged with assaultive offenses relating to the woman and her child, but this does not resolve the relevant inquiry. As previously stated, the prosecution relied on all three gunshots to establish the intent element of the "sentencing offense." Those same three gunshots cannot then be used to establish separate "acts" that occurred within 24 hours of the "sentencing offense" under MCL 777.42(2)(a)(i). [*Id*. at 228-229.]

The *Carter* Court noted that it was limiting its holding to the facts because the prosecution relied on all three gunshots to establish the elements of the sentencing offense. The Court was not suggesting that multiple gunshots could not constitute separate acts distinguishable from the sentencing offense under other factual circumstances. *Id*. at 229-230.

Similar to *Carter*, in this case, the prosecution contends that it could have charged defendant with felonious assault and unlawful imprisonment, thereby warranting a 10-point score for OV 12. But what could have been charged is not dispositive; rather examination of the evidence presented, the theory raised, and how it was argued before the jury is controlling.

In this case, the prosecution charged defendant committed the CSCs in three alternative ways: (1) in the course of the felony of home invasion, MCL 750.520b(1)(c), or (2) by being "armed with a weapon or any article used or fashioned in a manner to lead the victim to reasonably believe it to be a weapon," MCL 750.520b(1)(e), namely, the baseball bat, or (3) causing personal injury to the victim and using force or coercion to accomplish the sexual penetration, MCL 750.520b(1)(f). Force or coercion includes the defendant overcoming the victim through the application of physical force or violence or the actor coercing the victim to submit by threatening to use force or violence on the victim, which the victim believes the actor has the present ability to execute. MCL 750.520b(1)(f)(*i*)-(*ii*).

During closing argument, the prosecutor incorporated the baseball bat into evidentiary support for the CSC offenses:

> As far as the criminal sexual conduct, so that's Counts 2, 3, 4, and 5, the Defendant actually conceded yesterday that the first element in all of those counts happened, so it is up to you to decide how they happened. What the facts are in this case, and whether those facts broke the law. And so the other elements in criminal sexual conduct are that he committed criminal sexual conduct in the - - in the course of a felony, so he committed criminal sexual conduct as a result of the home invasion, or he committed criminal sexual conduct while he was armed with a weapon, the baseball bat, that [the victim] was watching, and looking at, and focusing on while the Defendant had his penis in her anus.
>
> And the third option is, force or coercion, that the penetration happened with force or coercion, and that [the victim] sustained a personal injury. Personal injury is defined for you, . . . there's no sort of minimal injury. [The trial court] is going to give you the instruction, and I submit to you that her physical bruising and swelling around her head is a personal injury, so force and coercion, and a personal injury. I know that . . . Defendant . . . he's going to say that all of this was consensual[.] . . . Did [the victim] consent to any of this? And this is what you'll think about. Was [the victim] free to leave and not take part in the sexual act? Did the Defendant threaten [the victim] with present or future injury? Did the Defendant use force, violence, or coercion? Did the Defendant display a weapon?

We conclude that the sentencing offense cannot be separated from other distinct acts of assault with a baseball bat or felonious assault. That is, the prosecutor argued that defendant committed the CSC-1 in the course of a felony home invasion or by being armed with a weapon, the baseball bat, or by threatening to use force or violence on the victim via threats with the baseball bat or displaying a weapon (the baseball bat). Because the prosecution asked the jury to consider the use of the baseball bat to support the CSC convictions, it failed to satisfy MCL 777.42(2)(a)(*ii*) by establishing that "[t]he act has not and will not result in a separate conviction."

Although the trial court erred in assessing five points for OV 12 premised on felonious assault, the trial court did not err in scoring five points for unlawful imprisonment. It is recognized that the prosecution asserted the circumstances were such that the victim was not free to leave and avoid participation in the sexual acts, in part, because of the baseball bat. However, after the

charged acts of sexual assault were completed, defendant left the room briefly. The victim testified that she was able to use her phone to photograph her injuries. Although the victim questioned how defendant could have inflicted the injuries upon her, his reaction prompted her to offer the explanation that defendant must have blacked out. Thereafter, with the baseball bat nearby, defendant rambled before eventually climbing on top of the victim and going to sleep. This constituted restraint for purposes of unlawful imprisonment. See MCL 750.349b(1)(a) and (3)(a). Thus, OV 12 was appropriately scored at five points.

V. HEARSAY AT SENTENCING

Defendant contends that the trial court erred in allowing hearsay and inaccurate information to be admitted as evidence at sentencing. We disagree.

To preserve an issue for appellate review, it must be raised, addressed, and decided by the trial court. *People v Anderson*, 341 Mich App at 279; 989 NW2d 832 (2022). Defendant's trial counsel objected to the introduction of this hearsay at sentencing, and the objection was overruled. The issue of the victim's injection of hearsay and potentially inaccurate information into the sentencing is preserved.

The trial court's resolution of the information to be considered at sentencing is reviewed for an abuse of discretion. See *People v Lampe*, 327 Mich App 104, 121; 933 NW2d 314 (2019). A trial court abuses its discretion when it chooses an outcome that falls outside the range of reasonable and principled outcomes. *People v Dixon-Bey*, 321 Mich App 490, 496; 909 NW2d 458 (2017).

At the sentencing hearing, the victim appeared and gave an impact statement, which was interrupted by an objection from defendant's trial counsel. The trial court overruled the objection, noting that the victim was giving her impact statement.

First, the hearsay rules are not applicable during sentencing. MRE 1101(b)(3) (Specifically, the evidentiary rules do not apply to "[p]roceedings for extradition or rendition; sentencing; granting or revoking probation; issuing criminal summonses, arrest warrants, and search warrants; and proceedings for release on bail or otherwise.").

In *People v McAllister*, 241 Mich App 466, 473; 616 NW2d 203 (2003), the defendant alleged that he was denied due process of law when the trial court refused to respond to challenges to inaccurate information contained in the presentence investigation report (PSIR) and refused to disclose letters addressed to the court by the victim and his family members. This Court acknowledged that defendant had the right to be sentenced premised on accurate information and that the trial court had to respond to allegations of inaccuracies. *Id*. But when the alleged inaccuracies would have no determinative effect on the sentence, the trial court's failure to respond may be considered harmless error. *Id*.

The defendant also alleged that he was entitled to examine the letters submitted to the court by the victim and the victim's family. *Id*. at 474. But the trial court disclosed the content of the letters from the victim and the victim's family; the letters addressed the effect of the injuries on the victim. The trial court did not ask the defendant to respond to ex parte communications, but

noted that the information was pertinent to scoring OV 13, governing psychological injury to the victim at five points.[6] *Id*. at 475.

The *McAllister* Court also rejected the defendant's claim that letters received from victims should be considered as evidence:

> We are confident that trial judges of this state are able to separate the evidence at trial from the subjective requests of victims or their family members as stated in letters submitted to the court. Additionally, our Legislature has determined the contents of the PSIR and has given victims the discretion to determine whether their victim impact statements may be included in the PSIR at the request of the victim. Any requirement to the contrary should be mandated by the Legislature. [*Id*. at 477.]

Further, the *McAllister* Court expressed that emotional pleas from victims were not the dispositive factor when sentencing because courts were aware of their subjective nature and their purpose:

> [W]e are confident that limitations on the sentencing court's discretion, which include the four goals of sentencing, the principle of proportionality, and the application of sentencing guidelines coupled with the sentencing court's knowledge that the letters are subjective opinions by the victims seeking to have the convicted punished for the harm incurred, are sufficient protections to ensure that a defendant is not sentenced in response to emotional pleas by victims. [*Id*. at 476 n 2.]

This claim of error does not entitle defendant to appellate relief. In her victim-impact statement, the victim delineated how defendant treated and manipulated her. She alleged that her contact with defendant's other family members, including defendant's son, demonstrated that his abusive conduct was not limited to her. When the victim's statements were challenged as hearsay and the inability to rebut the evidence, the trial court overruled the objection. Indeed, under MRE 1101(b)(3), hearsay is not excluded at sentencing. And the sentencing courts are aware of the victim's objective when providing a statement and making hearsay statements. Under the circumstances, the trial court was not required to address tangential issues such as defendant's son likening his father to serial killers. This challenge does not have merit.

VI. PROPORTIONATE SENTENCE

"A criminal defendant need not take any special steps to preserve the question of the proportionality of [the] sentence." *People v Foster*, 319 Mich App 365, 375; 901 NW2d 127 (2017) (quotation marks and citation omitted). This issue is preserved.

[6] The defendant in *McAllister* was sentenced under the Second Edition of the Judicial Sentencing Guidelines rather than the legislative sentencing guidelines.

"Sentencing decisions are reviewed for an abuse of discretion." *People v Boykin*, 501 Mich 171, 182; 987 NW2d 58 (2022).

> "A sentence that departs from the applicable guidelines range will be reviewed by an appellate court for reasonableness." *People v Lockridge*, 498 Mich 358, 392; 870 NW2d 502 (2015). "[T]he standard of review to be applied by appellate courts reviewing a sentence for reasonableness on appeal is abuse of discretion." *People v Steanhouse*, 500 Mich 453, 471; 902 NW2d 327 (2017). A trial court abuses its sentencing discretion when the sentence imposed by the trial court is disproportionate to the seriousness of the circumstances involving the offense and the offender. *Id.* at 459-460. A number of factors have been deemed appropriate to consider when determining the proportionality of a departure sentence, including the seriousness of the offense; factors not accounted for by the guidelines, such as the prior relationship between the victim and the defendant, a lack of remorse, or a low potential for rehabilitation; and factors accounted for by the guidelines but given inadequate weight under the circumstances. *People v Houston*, 448 Mich 312, 321-325; 532 NW2d 508 (1995). "[D]epartures are appropriate [when] the guidelines do not adequately account for important factors legitimately considered at sentencing." *People v Milbourn*, 435 Mich 630, 657; 461 NW2d 1 (1990). The existence of a departure factor is a factual question reviewed for clear error on appeal. See *People v Babcock*, 469 Mich 247, 264; 666 NW2d 231 (2003). [*Dixon-Bey*, 340 Mich App at 295-296.]

After defendant engaged in a lengthy allocution, the trial court explained its sentence:

> The Court notes that the sentencing guidelines range are advisory in nature, and the Court's sentence must be proportionate.
>
> Defendant is 35 years of age with two prior misdemeanors. He was on probation for aggravated assault, and had just been placed on probation . . . on July 21st of 2022.
>
> Further, Defendant was convicted of violating a personal protection order on October 4th of 2023. The Court notes that the victim in the PPO was [SS].
>
> The Court has received and read numerous letters from people who are closely connected to the Defendant, from his brother and ex-wives. All of the letters have a common theme, that is Defendant is a violent, manipulative individual, and this doesn't come from simply [the victim]. I want it to be clear, this comes from people that know you best - - know you better than your own attorney. And I respect [defense counsel] a lot, but they know you better than anyone else, and these are individuals that have been living with you for years. Your brother has lived with you for most of your life, and so I will indicate that when someone that close to an individual states that this person is a danger, I take that seriously. In fact, Defendant's brother requested this Court sentence Defendant to life in prison because of how dangerous Defendant is.

The Court notes that despite several Court orders, Defendant continued to contact [the victim] and continued to communicate with others outside the jail. In fact, after Defendant was convicted, the Court advised Defendant again not to have any communications and to follow this Court's orders. He failed to do so, and again, continued to contact a witness that was involved in this case and others. Defendant has gone so far as to have other inmates at the jail contact individuals once they are released. He clearly has no respect for Court orders.

Further, the behavior in the underlying convicted offenses is egregious and despicable. After [the victim] told Defendant that she did not want to be in a relationship, she clearly communicated that to him. She told him that she wasn't sure if he had his keys or not, but if he did, he were [sic] to leave them and she would place his belongings outside. He went into her home, broke in, and sexually assaulted her. He demeaned [the victim] and treated her inhumanly. He caused both physical and significant psychological injury. He is a danger of [sic] society.

In weighing the appropriate sentence, the Court notes the Defendant has limited criminal history, has a bachelor's degree, and has served in the United States military for which this Court is grateful for his military service. He was honorably discharged from the military. The Court finds that all to be mitigating.

However, Defendant's failure to comply with Court orders, Defendant contacting the victim to persuade her not to come to court, Defendant's lack of remorse, Defendant being on probation for an assaultive crime, Defendant's conviction for violating a PPO that involved the same victim, and the Defendant's actions in the underlying offense all outweigh any mitigating circumstances.

The Court finds that only a lengthy sentence will indeed keep the public and [the victim] safe. The Court notes that the prosecution requests consecutive sentencing pursuant to MCL 750.11[0]a[(8)] and MCL 750.520b(3), both statutes allow this Court to impose a consecutive sentence where there is any other criminal offense that arise[s] from the same transaction.

The Court also listened very closely to some of the statements that [defendant] made this afternoon, and I will start with respectfully his statements as it relates to his son and him being a great father. I have read . . . Appendix A that was attached to the sentencing memorandum, and I will tell you, I found this letter to be quite troubling, sir. Some of the things that are mentioned to your minor child, such as, I was able to confirm that the . . . detective on my case is corrupt. . . . He has been to [the victim's] more than 25 times trying to have sex with her. I've heard from numerous people that I'm good, this is going to be over soon, and the trial might not even happen, I guess we'll see. The Defendant signs this letter with telling his son . . . to first be a gangster, then a gentleman. I remember reading that within this letter.

And I note that I've received a note from this child's mother that indicates some of the issues . . . because of the impact that the Defendant has had on his son.

Nevertheless, the Court is not here to judge you on whether or not you're a good parent or not a good parent, sir, however, the Court needed to address that statement. And you're indicating to this Court that all you want to do is be a father, but when you're wanting to be a father, one of the first things you do is protect your children from harmful information. And to place any type of information like this in your child's mind while they're growing and maturing and trying to figure out what this world is about, to place that in their mind about a detective going over to a victim's house 25 times - - that's just in my opinion a way to manipulate the situation. I see right through that. There's no other reason to mention that to your minor child.

Nevertheless, again the Court has listened very closely, I'm taking into consideration all of the letters that I received.

I will note that counsel argued about deterrent and rehabilitation here. The Defendant, despite my order, despite me telling him in open court that if he were to continue to violate my order, I told him in open court once he was convicted, that I will take that into significant consideration. And despite my order, and despite my warning, he still violated the Court order. The Court again finds that he's not deterred by any Court orders, he's not deterred by anything that the Court has to say. It shows that if he can't follow a simple Court order such as not to contact anyone within the . . . four or five weeks that sentence is pending, if you can't follow such a simple order as that, then how could you follow any orders on parole, or moving forward, and how does that show this Court, that you can and will be rehabilitated? It shows me the opposite. It shows me that you can't comply with orders, the jail doesn't deter you, and that you are nevertheless going to continue to do what you want.

With all of that being said, the Court does believe that it is in the best interest of justice, as well as proportionate to the needs of [defendant], I sentence him as follows:

I will note that there is a recommendation and request for this Court to impose a consecutive sentence. The Court is not going to impose a consecutive sentence here, I don't believe that's appropriate. However, I do believe that a sentence above the sentencing guidelines is appropriate in this case based upon this Defendant's continued and egregious actions in this case. He's not listened to Court orders, he can't be deterred, and I have a significant concern for public safety as well as the safety of [the victim].

Therefore, the sentence will be as follows:

As it relates to Docket 2023-286119-FC, Count 1, home invasion, first degree, the sentence of the Court is that he shall serve 8 years to 20 years with the Michigan Department of Corrections, credit for 307 days served.

> As it relates to Counts 2 through 5, criminal sexual conduct first degree, the sentence of the Court is that the Defendant shall serve 26 years to 50 years with the Michigan Department of Corrections, credit for 307 days served.
>
> The Court notes that that is above the sentencing guidelines where the maximum was 285 months. I am imposing a sentence above the guidelines for the reasons I just previously stated.
>
> As it relates to Count 6, domestic violence, it is the sentence of the Court that he shall serve 93 days in the Oakland County Jail, credit for 307 days served.
>
> Sentences on all counts will be concurrent to other.

Although the guidelines are only advisory, they remain a useful tool in sentencing. *Dixon-Bey*, 321 Mich App at 524-525. And a trial court must justify the sentence imposed to facilitate appellate review and explain why the sentence imposed is more proportionate to the offense and the offender than a different sentence would have been. *Id*. The courts should consider whether the guidelines adequately reflect the seriousness of the crime, factors not considered by the guidelines, and factors considered by the guidelines but given inadequate weight. *Id*.

Here, defendant was involved in a dating relationship with the victim. When the relationship began to deteriorate, defendant engaged in manipulative behavior designed to control the victim. Defendant would deny his acts of infidelity, try to convince the victim that she was crazy, commit acts of physical abuse, and force sexual relations upon the victim. In order to reinitiate the relationship, defendant would cry, reference his adoption and poor familial relations, and claim a lack of friend support. As the relationship progressed and breakups increased, the level of manipulation and abuse increased.

On July 30, 2023, the victim had advised defendant that the relationship was over, and she left his belongings outside her home and blocked communications on her phone. Nonetheless, defendant entered her home, terrorized her with a baseball bat, and punched her in the face. Additionally, defendant forced the victim into engaging in multiple sexual acts. The victim consulted with medical personnel because of her condition following defendant's assault.

The guidelines do not adequately consider defendant's degree of noncompliance with court orders and his actions to intimidate the victim and cause her to recant. After the victim obtained a PPO against defendant, he contacted her in an effort to get her to recant, promising a future together. In doing so, defendant violated the PPO conditions. Further, defendant was on probation for another assaultive act upon a fellow bar patron when he committed the assault upon the victim. Thus, defendant was jailed pending trial and was advised to communicate solely with his counsel. Nonetheless, defendant manipulated the jail procedures and was able to utilize the system to contact friends and released inmates, asking them to reach out to the victim. The victim expressed concern that defendant gave her contact information to other inmates.

As the trial court explained, defendant was admonished to follow its no-contact orders, but he repeatedly failed to do so. Additionally, the trial court had the discretion to impose consecutive sentences. The trial court acknowledged the request for consecutive sentencing and questioned defendant's ability to be rehabilitated in light of his assaultive behavior and failure to follow simple

directives. Nonetheless, the trial court declined to impose consecutive sentencing but departed upward from the advisory guidelines range for the protection of society.

Although the 26-year minimum term exceeded the top of the sentencing guidelines range by 27 months, the sentence was reasonable when analyzing the circumstances of the offense and the offender. Defendant was on probation for an unprovoked assault. Yet he continued to engage in physical and sexual abuse of the victim. When a PPO was filed against him, he violated its terms and attempted to cause the victim to recant the allegations. Once jailed, defendant continued his attempt to use friends and other inmates to cause the victim to fail to participate in the criminal proceedings. Defendant demonstrated a violent history and an inability to conform to directives. The sentence imposed was proportionate under the circumstances.

Affirmed but remanded for ministerial act of correcting OV 12 in the SIR. We do not retain jurisdiction.

/s/ Anica Letica
/s/ Colleen A. O'Brien
/s/ James Robert Redford