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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHAD PATRICK WINTERS,

Defendant-Appellant.

UNPUBLISHED
October 09, 2026
12:00 PM

No. 374103
Marquette Circuit Court
LC No. 2023-063116-FC

Before: BORRELLO, P.J., and BAZZI and LIEVENSE, JJ.

PER CURIAM.

Defendant was convicted following a jury trial of two counts of assault with intent to commit great bodily harm less than murder (AWIGBH), MCL 750.84(1)(a), two counts of possession of a firearm during the commission of a felony (felony firearm), MCL 750.227b(1), and one count of carrying a firearm with unlawful intent, MCL 750.226(1). He was sentenced as a second-offense habitual offender, MCL 769.10(1)(a). The sentencing guidelines provided a recommended minimum term of imprisonment of between 34 to 83 months, but the trial court departed from the guidelines and imposed a concurrent sentence of 10 to 15 years' imprisonment for each AWIGBH conviction. Defendant was also sentenced to serve 2 years on each of the felony-firearm convictions and 400 days' imprisonment for the unlawful-carrying conviction. On appeal, defendant challenges the sentences he received for his AWIGBH convictions. We affirm.

I. FACTUAL BACKGROUND

The events giving rise to this case occurred on September 21, 2023, but some background about defendant is important. In December 2020, defendant was involved in an altercation with the police which resulted in five criminal charges, including two for assaulting, resisting, or obstructing a police officer. He pleaded guilty to one count of attempting to assault, resist, or obstruct a police officer and the other charges were dismissed.

Post-conviction, defendant received both inpatient and outpatient mental health treatment, including for schizophrenia, which is something he had received off and on since at least 2019. His treatment notes from this time described "paranoia and delusions stating the military and state are using artificial intelligence to cause him pains and aches" and that "they give me meds for the

voices, voices, voices, but it is not the voices, it's the equipment and the people." In October 2022, law enforcement petitioned for him to receive inpatient treatment, reporting that defendant had been observed stating that he wanted to kill law enforcement or government officials, that he had access to firearms in his home, and that he had "no insight into his mental illness and [was] evasive to all attempts to engage in a conversation."

Further relevant to defendant's opinions about law enforcement, at some point before the events giving rise to this case, defendant's son was charged and convicted of a drug offense and was incarcerated. Then-Michigan State Police (MSP) Trooper Brian Muladore was involved in that case, and it appears defendant became familiar with Muladore at that time. Also, at some point, defendant interacted with MSP Trooper Andrew Peterson and became familiar with him.

In addition, leading up to the offense, on June 28, 2023, MSP Trooper Alec Blank conducted a traffic stop of defendant. During this encounter defendant mentioned a "Brian" from MSP, believed to be Trooper Muladore, and that he wanted to "beat the f*** out of him," and he mentioned "Peterson," believed to be Trooper Peterson.

At trial, a non-law enforcement officer witness testified that, at some point before the incident, defendant showed him a rifle and ammunition in defendant's car, and that defendant had told him that defendant "didn't like cops" and that the next time he was stopped by the police, he would start "a shootout."

Then on September 21, 2023, Muladore, who by that point was an analyst with the Michigan Department of Corrections, and Trooper Peterson both began receiving strange text messages from a phone number that was quickly tied to defendant. For example, Trooper Peterson received pictures of defendant's ID with his name and his wallet. Defendant also sent Peterson a picture of himself holding a pistol in front of his face. At trial, Trooper Peterson testified that he interpreted the pictures defendant sent as threatening. Muladore also testified about text messages he received that day from defendant that included pictures of rifles. Based on the messages, law enforcement obtained an arrest warrant for defendant on charges of making a false report or threat of terrorism and, after defendant failed to respond to messages asking that he turn himself in, they began looking for defendant.

Later that evening, Trooper Peterson and Trooper Tyler Vargo located defendant and attempted to conduct a traffic stop of his vehicle at an intersection in Marquette County. Trooper Peterson testified that, when defendant pulled over, he saw defendant "violently reaching for something," adding that "it was . . . an aggressive reach towards the passenger's side, it looked like he was almost throwing himself over the center console of the vehicle." Peterson testified further that, as he was exiting his patrol vehicle, he saw defendant "come out, pull out a pistol two hands and extend it towards us and at that point, we started firing." Trooper Peterson testified that it appeared to him that defendant "was pointing it towards my partner Trooper Vargo, who was the driver of the vehicle, him or the vehicle itself." He further testified that he believed "it was [defendant's] intent to kill us," and therefore "I took the action that I needed . . . to protect the life of my partner and myself." Trooper Vargo gave similar testimony, stating affirmatively that he believed both himself and Trooper Peterson could be shot and killed.

Trooper Peterson testified he shot defendant, which caused defendant to fall back into his car. He continued by testifying that after defendant fell, he and Trooper Vargo ceased firing, and "started to give verbal commands, show us your hands, show us your hands." Trooper Vargo

testified, however, that he saw defendant "stick the pistol back out and point it back towards us," and that he feared that he or Trooper Peterson might be shot. Trooper Peterson also testified that he believed defendant was a continued threat. He testified that he and Trooper Vargo opened fire again until Trooper Peterson observed defendant's gun stop moving. He then saw defendant raise one hand and heard him yell, "I'm done." The troopers talked defendant into crawling out of his car, and defendant was placed into custody.

The troopers searched defendant's vehicle and found a bloody handgun, a rifle, and hundreds of rounds of ammunition. Trooper Peterson and Trooper Vargo were not injured; however, defendant had gunshot wounds to his upper torso, leg, and hand. He was taken to the hospital and received emergency medical care.

Later, MSP Detective Sergeant Ron Baril executed a search warrant at a barn associated with defendant. He testified that, among the items found, there was a "torture bag" containing "a shovel, a machete, jumper cables, an extension cord with the female end cut off, so you could plug it into the wall and shock somebody with it." Additionally, Detective Sergeant Baril testified that there "was a post fencer," which was "another shocking device," and Molotov cocktails. Another bag had multiple zip-ties and ropes.

Defendant was charged with two counts of assault with intent to murder based upon defendant's actions toward the troopers. However, the jury found defendant guilty of the lesser offenses of AWIGBH along with the other charges outlined above.

Before sentencing, defense counsel filed a written memorandum challenging the scoring of 25 points for offense variable (OV) 3 and 25 points for OV 13. At the sentencing hearing, defendant further argued against scoring 25 points for OV 13 but did not mention the scoring of 25 points for OV 3. The trial court disagreed and scored 25 points for each OV and calculated a guidelines range of 34-83 months. The court found that defendant's history with schizophrenia and physical injuries were mitigating factors, but it also identified several aggravating factors, some of which were not factored into the minimum sentencing guidelines range. The court imposed an upward departure sentence of 10 to 15 years' incarceration for the AWIGBH convictions.

This appeal followed.

II. STANDARDS OF REVIEW

Defendant argues that the trial court improperly scored points for OV 3 and OV 13. He also argues that the court failed to adequately justify its upward departure sentence. This Court reviews de novo issues involving the interpretation and application of the legislative sentencing guidelines. *People v Morson*, 471 Mich 248, 255; 685 NW2d 203 (2004). "Under the sentencing guidelines, a trial court's findings of fact are reviewed for clear error and must be supported by a preponderance of the evidence." *People v Thompson*, 314 Mich App 703, 708; 887 NW2d 650 (2016). "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).

We review a departure sentence to determine whether it "is so unreasonable as to constitute an abuse of the trial court's discretion and warrant reversal on appeal." *People v Steanhouse*, 500

Mich 453, 471; 902 NW2d 327 (2017). "A sentence is unreasonable—and therefore an abuse of discretion—if the trial court failed to adhere to the principle of proportionality in imposing its sentence on a defendant." *People v Lampe*, 327 Mich App 104, 125; 933 NW2d 314 (2019).

III. OV 3

Defendant argues first that he was sentenced on the basis of inaccurate information because the trial court should not have assessed 25 points for OV 3 for injuries that he sustained rather than for injuries sustained by another victim. Applying binding precedent, we disagree.

"Offense variable 3 is physical injury to a victim." MCL 777.33(1). "A sentencing court is required to assess 25 points for OV 3 when '[l]ife threatening or permanent incapacitating injury occurred to a victim[.]' " *People v Teike*, 348 Mich App 520, 526; 19 NW3d 733 (2023), quoting *People v Chaney*, 327 Mich App 586, 589; 935 NW2d 66 (2019). "When calculating sentencing guidelines, the trial court may consider all record evidence, including the presentence investigation report (PSIR), plea admissions, and testimony. The trial court may also consider victim-impact statements, and may make reasonable inferences from evidence in the record." *Teike*, 348 Mich App at 526-527 (quotation marks and citation omitted).

"[T]he presence of a victim is a necessary condition to the assessment of points under OV 3." *People v Laidler*, 491 Mich 339, 344; 817 NW2d 517 (2012). "[P]ursuant to common, and relevant, usage, a 'victim' is any person who is harmed by the defendant's criminal actions." *Id*. at 348. In *Laidler*, our Supreme Court rejected the argument "that a victim and an offender cannot be the same person," and rejected "a definition of 'victim' that excludes offenders and co-offenders." *Id*. at 351. The Court acknowledged that the result of its interpretation of OV 3's text was that "an offender can be scored points for his own injury under OV 3." *Id*. at 352.

The PSIR, therefore, scored OV 3 at 25 points and the trial court adopted that scoring in calculating the guidelines. First in his sentencing memo and now on appeal, defendant tries to distinguish this case from *Laidler* because in *Laidler* the defendant was held accountable for injuries to a co-defendant, whereas, in this case, he was held accountable for injuries he sustained. But *Laidler* makes no such distinction and even acknowledges that its interpretation of the plain language of "victim" in MCL 777.33 includes this result. Thus, *Laidler* permits trial courts to apply OV 3 to injuries sustained by a defendant. *Laidler* reasoned that "the state has a generalized interest in minimizing physical harms to all persons, and, all else being equal, the commission of a crime that results in a physical harm, even when the harm is the perpetrator himself, might be deemed more serious than the commission of the same crime that does not result in such harm." 491 Mich at 352-353. This case is an example of where that reasoning applies. Defendant pulled out a gun during a confrontation with police officers and, as a result, sustained serious injuries. The fact that the officers who defendant pointed his gun at went uninjured does not mean the trial court erred in assessing 25 points for OV 3 in this case.

Further relevant to OV 3, on appeal defendant argues that he received ineffective assistance of counsel because his trial counsel did not object to scoring OV 3 at 25 points. However, as mentioned, defense counsel did object to scoring OV 3 in a written memorandum filed before defendant's sentencing hearing. At the sentencing hearing, the trial court acknowledged that it had read the memorandum and asked for any challenges "beyond" what was already argued in the memorandum. Therefore, defendant's ineffective assistance of counsel argument lacks merit.

IV. OV 13

Defendant next challenges the scoring of OV 13. He argues that the trial court erred by assessing OV 13 at 25 points rather than zero points because his convictions originated from a single felonious act. We disagree.

OV 13 addresses a "continuing pattern of criminal behavior." MCL 777.43(1). The trial court must assess anywhere from 0 to 50 points depending on the applicable circumstances, and 25 points if the "offense was part of a pattern of felonious criminal activity involving 3 or more crimes against a person." MCL 777.43(1)(c). To determine the appropriate points to be assessed under OV 13, "all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction." MCL 777.43(2)(a). "The sentencing offense is the crime of which the defendant has been convicted and for which he or she is being sentenced." *People v McGraw*, 484 Mich 120, 122 n 3, 771 NW2d 655 (2009). A pattern of criminal activity may be based on multiple offenses arising from the same event. *People v Harmon*, 248 Mich App 522, 532; 640 NW2d 314 (2001). However, "a single felonious act cannot constitute a pattern" under MCL 777.43(1). *People v Carll*, 322 Mich App 690, 704; 915 NW2d 387 (2018).

The PSIR assessed 25 points for OV 13. At sentencing, defense counsel challenged the assessment by arguing that defendant only committed at most two qualifying crimes against a person during the July 21 incident. In response, the prosecutor argued that the 2020 incident provided multiple qualifying felonies as well such that OV 13 applied. The trial court agreed with the prosecutor, explaining that there was "at least one" instance of resisting and obstructing the police from that incident that took place in December 2020, which, "combined with the two [AWIGBH] convictions in this case, that would combine for three total."

The record supports the trial court's reasoning and scoring of 25 points for OV 13. A trial court properly scores OV 13 in cases where "the defendant committed separate acts in a single criminal episode." *Carll*, 322 Mich App at 705. Here, defendant grabbed his loaded gun, got out of his vehicle, and pointed the gun toward law enforcement, thus prompting Troopers Peterson and Vargo to begin firing based on a belief that defendant was going to shoot them. After the first round of shots ended, the troopers saw defendant raise his arm and gun towards them again, prompting additional fire.

Defendant relies on *Carll*, 322 Mich App at 693, 704, which held that a trial court erroneously scored 25 points for OV 13 following that defendant's convictions for one count of reckless driving causing death, MCL 257.626(4), and three counts of reckless driving causing serious impairment of a bodily function, MCL 257.626(3), but the facts of this case are distinguishable. *Carll* held that, although there were multiple victims, "nothing was presented to show that he committed separate acts against each individual victim in the course of the reckless driving." *Carll*, 322 Mich App at 705-706. In this case, however, both Trooper Peterson and Trooper Vargo testified that defendant threatened them by pointing a handgun at them two times, and so the record indicates that there were "separate acts in a single criminal episode," substantiating at least two crimes that constitute a pattern of felonious criminal activity. *Id*. at 705.

And for a third criminal act to support scoring 25 points, the trial court correctly referenced defendant's plea to attempted resisting and obstructing an officer, MCL 750.81d, from 2020. Our Supreme Court has held that "a prior conviction for attempted resisting and obstructing does not, on its face, establish felonious criminal activity" because such convictions are "not punishable with imprisonment for more than one year[.]" *People v Jackson*, 504 Mich 929, 929 (2019) (citations omitted). The PSIR, however, indicates that defendant was originally charged with multiple counts of resisting and obstructing, and the trial court considered the factual basis for defendant's 2020 conviction, including that defendant actively resisted multiple law enforcement officers following a car accident in which he was the driver. Specifically, defendant refused to follow lawful commands to exit his vehicle, then he attempted to kick the officer who gave the commands, and the officers tasered defendant. MCL 777.43(2)(a) expressly states "that all crimes within a 5-year period, including the sentencing offense, shall be counted regardless of whether the offense resulted in a conviction." Therefore, in addition to the act that resulted in his conviction for attempted resisting and obstructing, any of defendant's other acts of resisting were available for the trial court to apply to score OV 13.

For these reasons, defendant's challenge to the trial court's scoring of 25 points for OV 13 fails.

V. DEPARTURE SENTENCE

Finally, defendant argues that the trial court failed to justify its decision to impose a departure sentence and therefore violated governing principles of proportionality. We disagree.

A sentencing court that departs from the applicable guidelines range no longer needs to supply a substantial or compelling reason for doing so. *People v Lockridge*, 498 Mich 358, 364-365; 870 NW2d 502 (2015). Because the sentencing guidelines remain "a highly relevant consideration in a trial court's exercise of sentencing discretion," however, trial courts must still consult them and "take them into account when sentencing." *Id*. at 391 (quotation marks and citation omitted). "In imposing an out-of-guidelines sentence, a trial court must justify the sentence imposed in order to facilitate appellate review, which includes an explanation of why the sentence imposed is more proportionate to the offense and the offender than a different sentence [i.e., one within the guidelines] would have been." *People v Lydic*, 335 Mich App 486, 500-501; 967 NW2d 847 (2021) (quotation marks and citation omitted).

The "principle of proportionality requires 'sentences imposed by the trial court to be proportionate to the seriousness of the circumstances surrounding the offense and the offender.' " *Steanhouse*, 500 Mich at 474, quoting *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). " '[T]he key test is whether the sentence is proportionate to the seriousness of the matter, not whether it departs from or adheres to the guidelines' recommended range.' " *Steanhouse*, 500 Mich at 472, quoting *Milbourn*, 435 Mich at 661.

This Court has identified relevant factors to apply for determining whether a departure sentence is more proportionate than a sentence within the guidelines range. *People v Dixon-Bey*, 321 Mich App 490, 525; 909 NW2d 458 (2017). These factors include: (1) whether the guidelines accurately reflect the seriousness of the crime; (2) factors not considered by the guidelines; and (3) factors considered by the guidelines but given inadequate weight." *Id*. (citations omitted).

Additional factors a sentencing court may consider when contemplating a departure sentence "include the defendant's misconduct while in custody, the defendant's expressions of remorse, and the defendant's potential for rehabilitation." *Id*. at 525 n 9 (quotation marks and citations omitted).

In contesting his sentence on proportionality grounds, defendant argues that the trial court failed to consider his mental health problems and that he was actively attempting to address his schizophrenia before he committed the sentencing offenses. But, at sentencing, the trial court acknowledged defendant's schizophrenia as a mitigating factor while also calling attention to the factors that indicated planning and clear-headed criminal intent. The trial court also found that defendant presented a special risk of future danger given he began mental health services for his schizophrenia in 2019, at which time his paranoia regarding the government was already apparent. Despite receiving treatment, he began expressing a desire to kill government officials by 2022 as demonstrated by the testimony from the non-law enforcement witness regarding defendant's intent to get into a "shootout" with police the next time he was pulled over. Moreover, the court heard Trooper Blank's testimony and saw text messages from defendant indicating that he specifically held a grudge against Muladore and Trooper Peterson. And despite his attempts to address his mental illness, defendant discontinued services and sent threats to both men. The trial court specifically mentioned concerns over defendant's risk of future violence and found that the guidelines did not sufficiently account for the degree of risk defendant presented. These considerations were appropriate in fashioning a departure sentence.

Defendant also argues that the court failed to account for his physical injuries as a mitigating factor. But the trial court expressly acknowledged defendant's extensive physical injuries, stating that he had "paid a physical price of being shot during this encounter, having an amputation to part of his . . . middle finger on his right hand and having to recover in the hospital." Despite this, the court reasoned that defendant had intended to cause great bodily harm to law enforcement officers as evidenced by the testimony about his disdain for law enforcement and the "torture kit" recovered from the barn. The record indicates that the trial court accounted for defendant's physical injuries as a factor and weighed it against the serious harm he intended toward law enforcement officers.

On the whole, the trial court provided extensive reasoning for the departure sentence, describing several factors that it believed the guidelines did not reflect. *Dixon-Bey*, 321 Mich App at 525. Again, the court described the planning, intent, and lack of hesitation that defendant had displayed and described defendant's "torture kit." The court further explained that defendant's targeting of law enforcement was particularly concerning both because it had "a chilling effect on other members of law enforcement," and because it ran the risk of injuring those that are needed to protect the community. It also noted that defendant had a criminal history beyond what the scoring of his prior record variables had considered. The court reasonably adjudged defendant a significant future threat and stressed the need for a sentence that would deter both defendant, and others, from engaging in similar conduct.

For these reasons, defendant's sentences for the AWIGBH convictions did not violate the principle of proportionality and the trial court did not abuse its discretion by imposing an upward departure sentence.

Affirmed.

/s/ Stephen L. Borrello
/s/ Mariam S. Bazzi
/s/ Andrew J. Lievense