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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 12, 2026 9:34 AM
v	No. 373988 Chippewa Circuit Court
CHRISTOPHER MICHAEL LARSON, Defendant-Appellant.	LC No. 2023-005950-FH

Before: YOUNG, P.J., and REDFORD and FEENEY, JJ.

PER CURIAM.

Following a one-day jury trial, defendant, Christopher Michael Larson, was convicted of two counts of fourth-degree criminal sexual conduct (CSC-IV), MCL 750.520e(1)(b)(*v*). Larson was sentenced as a fourth habitual offender, MCL 769.12, to serve concurrent terms of imprisonment of 46 months (3 years and 10 months) to 15 years for each conviction. Larson now appeals these convictions and sentences, arguing that (1) trial counsel was ineffective for failing to object to irrelevant and prejudicial testimony and inappropriate video narration, and (2) that the sentences imposed were unreasonable and disproportionate. We affirm.

I. FACTUAL BACKGROUND AND PROCEDURAL HISTORY

Larson, HA, and HA's friend, AG, had all previously been incarcerated in the Chippewa County jail at the same time. HA testified that she had considered Larson a friend. HA also testified that she was not attracted to men and that she explained this to Larson before, but that Larson nonetheless "used to write [her intimate] notes and stuff . . . in the jail" which made her feel "uncomfortable."

On the evening of June 5, 2023, an intoxicated Larson entered a gas station in Chippewa County. The cashier testified that Larson made several inappropriate, sexually suggestive, comments toward her. Minutes later, HA and AG entered the gas station, saw Larson, and hugged him. HA and AG testified that Larson then followed them around, whispered sexual comments in HA's ear, and groped her buttocks and breasts. Surveillance footage, provided to and reviewed by

this Court, shows the hug that HA and AG testified to, and a later hug by Larson to HA near the cash register. The second hug appeared to last longer than the first and included Larson getting close to HA's face, ear, and neck.

HA and AG left the gas station and walked to the parking lot of the nearby residential hotel where they lived. They each testified that they were trying to separate themselves from Larson, but that he continued following them. HA testified that there had been a car accident in the parking lot and that she and AG lingered there to observe the scene, when Larson again hugged and groped her. HA and AG testified that they eventually separated themselves from Larson and went into their hotel room. Larson then went to the hotel's front desk and asked for HA's room number, which HA told the hotel clerk not to give him. The hotel clerk then called 911, reporting that Larson was "highly intoxicated," had been asked "to leave several times" and was "getting irate," and had been walking around and "yelling" at the clerk. The police were dispatched, and a deputy from the Chippewa County Sheriff's Office spoke to the clerk, Larson, HA, and AG.

Larson was charged with two counts of CSC-IV, for touching HA in the gas station and parking lot.[1] At trial, the prosecution called the cashier, HA, AG, and the responding deputy as witnesses. The surveillance video from the gas station and audio from the 911 call were admitted and played for the jury. The cashier testified about what Larson had been saying before HA entered the gas station. Specifically, the cashier testified that Larson said, "oh, you'd make a good baby mama," and "I wanna lick you all over and kiss you," and offered to kiss her. As the surveillance video was played for the jury, the deputy, at the prosecution's request, simultaneously described what the footage depicted. Defense counsel did not object during the direct examination of either the cashier or the deputy and did not present any of its own witnesses. The jury found Larson guilty of both charges.

The recommendation for Larson's minimum sentence under the sentencing guidelines was 5 to 46 months. Defense counsel urged the trial court to impose a sentence in the middle of that range, but the prosecution persuaded the court to impose a minimum at the high end. Larson was also required to register under the Sex Offenders Registration Act, MCL 28.721 *et seq*.

On appeal, Larson challenges his convictions on the grounds that defense counsel was ineffective for failing to object to the gas station cashier's testimony regarding what Larson said to her before HA arrived at the store, and to the deputy's narration of the surveillance video as it was played for the jury. He alternatively challenges his sentence on the ground that it was not proportionate to the offense and offender.

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[1] Larson was convicted of CSC-IV on the basis that he imposed sexual contact on HA by concealment or surprise. MCL 750.520e(1)(b)(*v*). " 'Sexual contact' includes the intentional touching of the . . . clothing covering the immediate area of the victim's . . . intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification, [or] done for a sexual purpose." MCL 750.520a(q). " 'Intimate parts' includes the . . . buttock, or breast." MCL 750.520a(f).

II. INEFFECTIVE ASSISTANCE OF COUNSEL

A. STANDARD OF REVIEW

"The determination whether a defendant has been deprived of the effective assistance of counsel presents a mixed question of fact and constitutional law." *People v Cline*, 276 Mich App 634, 637; 741 NW2d 563 (2007). We "must first determine the facts and then decide whether those facts constitute a violation of the constitutional right to the effective assistance of counsel." *Id*. However, because Larson failed to request and obtain an evidentiary hearing for further development of the issue, our review of counsel's performance is limited to errors apparent from the existing record. *People v Spears*, 346 Mich App 494, 503; 13 NW3d 20 (2023).

B. LARSON FAILS TO ESTABLISH THAT TRIAL COUNSEL WAS INEFFECTIVE

The United States Constitution and the Michigan Constitution guarantee a criminal defendant the assistance of counsel for his or her defense. US Const, Am VI; Const 1963, art 1, § 20. A defendant seeking relief on the basis of ineffective assistance of counsel must satisfy two prongs:

> First, the defendant must show that counsel's performance was deficient. This requires showing that counsel made errors so serious that counsel was not functioning as the "counsel" guaranteed the defendant by the Sixth Amendment. Second, the defendant must show that the deficient performance prejudiced the defense. This requires showing that counsel's errors were so serious as to deprive the defendant of a fair trial, a trial whose result is reliable. Unless a defendant makes both showings, it cannot be said that the conviction . . . resulted from a breakdown in the adversary process that renders the result unreliable. [*Strickland v Washington*, 466 US 668, 687; 104 S Ct 2052; 80 L Ed 2d 674 (1984).]

Moreover, under the Michigan Rules of Evidence, evidence is relevant if "(a) it has any tendency to make a fact more or less probable than it would be without the evidence," and "(b) the fact is of consequence in determining the action." MRE 401. However, "[t]he 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." MRE 403. "Unfair prejudice may exist where there is a danger that the evidence will be given undue or preemptive weight by the jury or where it would be inequitable to allow use of the evidence." *People v Blackston*, 481 Mich 451, 462; 751 NW2d 408 (2008).

1. THE CASHIER'S TESTIMONY WAS PROPERLY ADMITTED

Larson first argues that trial counsel was ineffective for not objecting to the cashier's testimony about Larson's comments before HA entered the gas station. According to Larson, the testimony was seriously prejudicial while offering little of probative value. We disagree.

In this appeal, Larson characterizes the testimony as presenting him as "rude and sexually charged," and "a sex pest," and asserts that it was not properly introduced under MRE 404(b), not

relevant under MRE 401, and overly prejudicial under MRE 403. But Larson fails to establish that the challenged evidence came in under MRE 404(b)(1) in the first instance. MRE 404(b)(1) concerns "[e]vidence of any other crime, wrong, or act." Larson does not convincingly argue that the evidence at issue described an "other" wrong or act for purposes of MRE 404(b). Larson instead stresses that he made the comments at issue *before* HA was inside the store but cites no authority for the proposition that statements a defendant makes before a victim enters the scene of the crime necessarily implicate MRE 404(b). In this case, the challenged evidence fell within the context of the crimes at issue. Therefore, neither the substantive nor notice requirements of MRE 404(b) were implicated.

Next, Larson argues that the evidence had no relevance to the crimes at issue, whether considered under MRE 401 or MRE 404(b)(2). The CSC-IV convictions required proof of an "intentional touching of the . . . clothing covering the immediate area of the victim's . . . intimate parts," that could "reasonably be construed as being for the purpose of sexual arousal or gratification, [or] done for a sexual purpose." MCL 750.520a(q). Defense counsel argued in closing that defendant had not touched the specified areas of the body or otherwise touched HA "in any sexual way." On appeal, Larson stresses that the challenged testimony could lead the jury to conclude that he was acting in an offensive, disrespectful, and sexual way toward a woman. But that is exactly why the testimony had bearing on whether Larson then engaged in conduct also involving those characteristics when another woman entered the store immediately afterward. Evidence of a defendant's behavior and statements immediately before the *actus reus* is routinely introduced in trials involving questions of intent or purpose. This evidence also clearly implicated several of the uses permitted under MRE 404(b)(2): "motive, . . . intent, . . . absence of mistake, or lack of accident."

As to MRE 403, the danger of admitting the testimony did not substantially outweigh the probative value. The testimony was not about some unconnected wrong that Larson had committed earlier in his life, but rather what Larson was doing and saying minutes before the criminal conduct at issue. Any resulting prejudice was therefore not "unfair" for purposes of MRE 403, and in any event was countered by ample probative value.

And because the evidence was properly admitted, any objection to it would have been meritless. Defense counsel therefore did not perform deficiently in the matter. See *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010) ("Failing to advance a meritless argument or raise a futile objection does not constitute ineffective assistance of counsel."). For these reasons, Larson has failed to establish either the deficient-performance, or prejudice, prongs for establishing the ineffective assistance of counsel in relation to the challenged testimony from the cashier.

2. LARSON FAILS TO ESTABLISH THAT TRIAL COUNSEL WAS INEFFECTIVE FOR NOT OBJECTING TO THE DEPUTY'S VIDEO NARRATION

Larson next argues that his trial counsel provided ineffective assistance by not objecting to the deputy's description of the video evidence.

In an ineffective assistance of counsel claim, "[t]he defendant must overcome the presumption that counsel's actions were based on reasonable trial strategy." *Cline*, 276 Mich App

at 637. "A failed strategy does not [necessarily] constitute deficient performance." *People v Petri*, 279 Mich App 407, 412; 760 NW2d 882 (2008). "[D]eclining to raise objections . . . can often be consistent with sound trial strategy." *People v Unger*, 278 Mich App 210, 242; 749 NW2d 272 (2008). "Certainly there are times when it is better not to object and draw attention to an improper comment." *People v Bahoda*, 448 Mich 261, 287; 531 NW2d 659 (1995).

MRE 602 provides that a non-expert "witness may testify to a matter only if evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may consist of the witness's own testimony." Additionally, under MRE 701, "[i]f a witness is not testifying as an expert, testimony in the form of an opinion is limited to one that is (a) rationally based on the witness's perception; and (b) helpful to clearly understanding the witness's testimony or to determining a fact in issue." *People v Fomby*, 300 Mich App 46, 53; 831 NW2d 887 (2013) (quotation marks and citation omitted). Lay-opinion testimony from a witness that identifies the defendant in surveillance footage is admissible when there is "reason to believe that the witness is more likely to identify correctly the person than is the jury." *Id.* at 52 (quotation marks and citation omitted). Conversely, when the witness is not in a better position than the jury to make the identification, such testimony is inadmissible. *Id.*

In *Fomby*, the defendant challenged the testimony of a police officer who was "a certified video forensic technician." *Id.* at 48. That witness had created still images from the video, and both the video and stills were shown at trial. *Id*. at 53. The witness "did not identify [the defendant] in the video or still images," but "linked individuals depicted in the surveillance video as being the same individuals depicted in the still photographs." *Id*. This Court ruled that the witness did not venture so far as to express an opinion on guilt or innocence and that the "testimony helped the jury to correctly and efficiently determine whether the two individuals seen earlier in the footage were the same individuals who were involved in the murder later depicted in the video." *Id*. at 52. And because of the witness's role with respect to the video and still images, he "was in the best position to identify the individuals in the photographs as being the same as those depicted in the video," and therefore the testimony "did not invade the province of the jury." *Id*. at 53.

Conversely, in *People v Perkins*, 314 Mich App 140, 145; 885 NW2d 900, superseded in part on other grounds by *People v Hyatt*, 316 Mich App 368; 891 NW2d 549 (2016), the witness was the police officer who had investigated the crimes. The witness identified the defendant as the person depicted in video footage and also testified that, as the defendant "neared the bottom of the stairs, 'you can clearly see him make a motion. Left hand crosses the body. Right hand touches the hip,' which [the witness] believed was an attempt to conceal a weapon." *Id*. at 161. This Court found that "[t]here was nothing about the images (i.e. poor quality of the images, defendant wearing a disguise) that necessitated [the witness's] opinion." *Id*. at 162. Therefore, the witness "could properly comment that, based on his experience, the individual appeared to be concealing a weapon, but . . . should not have been allowed to identify [the defendant] as that individual." *Id*. at 161. However, this Court found that the error did not warrant reversal, given the overwhelming evidence of guilt coupled with the fact that the defendant's identity was not in question. *Id*. at 162-163.

In this case, in challenging the deputy's description of events that were being shown on the surveillance video, Larson focuses on the moment when the video was paused, and the deputy

stated, "Shortly after this you'll see the females begin to walk away and at that point you can see [Larson] reach to grab [HA's] buttock—he does make contact with her." The video was resumed, and he continued, "He reaches and grabs her there." The corresponding surveillance video footage shows HA, AG, and Larson walking toward the camera. Because of the angle, and because HA and AG are between the camera and Larson, the video does not clearly show if or where Larson touched HA. The deputy thus effectively inserted description where it should have been left for the jury to decide. This testimony exceeded the permissible bounds of opinion testimony under MRE 701(a), and we therefore agree with Larson that defense counsel should have objected and was deficient for failing to do so. The deputy described an important section of the video with an apparent tone of certainty that favored the prosecution, when the video did not actually conclusively depict what he described.

However, like in *Perkins*, there was sufficient evidence apart from the deputy's video narration to support both convictions. Both HA and AG testified to events amounting to an unwanted touching of HA and as explained above, the cashier provided additional context. And, although the video does not clearly show Larson grabbing HA's butt, it does clearly show several other things she testified to—multiple hugs, whispering, and Larson being in close proximity to her.

Therefore, even if we were to find that defense counsel performed deficiently, Larson has not shown a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. See *Strickland*, 466 US at 687. Because Larson fails to meet both prongs of the *Strickland* test, he fails to establish that he received ineffective assistance of counsel at trial and is not entitled to relief on this issue.

III. SENTENCING

Larson alternatively argues that his sentence was unreasonable and disproportionate. We disagree.

A. STANDARD OF REVIEW

We review "the reasonableness of a sentence for an abuse of the trial court's discretion." *People v Walden*, 319 Mich App 344, 351; 901 NW2d 142 (2017). An abuse of sentencing discretion occurs when the sentence imposed does not reasonably reflect the seriousness of the circumstances surrounding the offense and the offender. *People v Steanhouse*, 500 Mich 453, 459-460; 902 NW2d 327 (2017), citing *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

B. LARSON FAILS TO REBUT THE PRESUMPTION OF PROPORTIONALITY FOR HIS WITHIN-GUIDELINES SENTENCES

Sentencing courts must consult the sentencing guidelines when imposing sentence. See *People v Lockridge*, 498 Mich 358, 391; 870 NW2d 502 (2015). "When a trial court sentences a defendant within the guidelines' recommended range, it creates a presumption that the sentence is proportionate. However, . . . the presumption of proportionality may be overcome." *People v Posey*, 512 Mich 317, 360; 1 NW3d 101 (2023). Here, that presumption was not.

As noted, Larson's guidelines range was 5 to 46 months, and the court imposed sentences at the high end of that range. This is in line with his criminal history of being released from jail then quickly committing another offense resulting in another jail sentence, as Larson committed the instant offenses mere days after being most recently discharged from his previous jail sentence. The trial court stated that HA "did trust [Larson] as being a friend," and that Larson "exploited" this. It also noted that several "straight jail sentences haven't seemed to work." The court explained that "[t]he sentence is punitive in nature to protect society and serve as a deterrent," and "will allow [Larson] the opportunity to rehabilitate with the Department of Corrections." Larson exposes no inaccuracies in the trial court's assessment of the offense and offender.

Larson correctly points out that this criminal record was accounted for in the guidelines scoring, and that he had not previously been sentenced to a term of imprisonment. But Larson was on five separate occasions sentenced to serve at least 11 months in jail and quickly followed his release from each by committing more offenses. Larson also points out that these were his first CSC convictions, but he had four prior domestic violence convictions, and two assault and battery convictions. Thus, even if there were no sexual component in Larson's criminal history, he has committed violent crimes. That Larson's extensive criminal history did not happen to include a CSC conviction does not itself render the within-guidelines sentence disproportionate.

For these reasons, Larson has failed to show that his within guidelines sentences violated the principle of proportionality.

Affirmed.

/s/ Adrienne N. Young
/s/ James Robert Redford
/s/ Kathleen A. Feeney