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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 22, 2026 9:53 AM
v	No. 378899 Bay Circuit Court
ROBERT DALE TWEEDLY, JR., Defendant-Appellant.	LC No. 24-010481-FC

Before: MARIANI, P.J., and FEENEY and TREBILCOCK, JJ.

PER CURIAM.

Defendant appeals by leave granted[1] the trial court's orders (1) denying his motion to suppress incriminating statements that he made while in police custody, and (2) denying his motion to quash his bindover on charges of open murder, MCL 750.316, and disinterment of a human body, MCL 750.160. According to defendant, the incriminating statements at issue should have been suppressed because they were elicited after and despite his invocation of his right to counsel, in contravention of *Miranda*[2] and its progeny. And, defendant further reasons, because there was insufficient evidence to bind him over on the charged offenses absent those incriminating statements, his bindover should have been quashed. We affirm.

I. BACKGROUND

On September 18, 2024, officers of the Bay City Department of Public Safety found four limbs of a human body in the water at a boat launch. The body parts were later identified as belonging to a local man who had been recently reported as missing. Once identified, law enforcement learned that the victim had met defendant after they connected on a dating application, which occurred shortly before the victim went missing. Officers then obtained a search warrant for defendant's residence. Defendant was present when the police executed the search warrant on

[1] *People v Tweedly, Jr*, unpublished order of the Court of Appeals, entered April 22, 2026 (Docket No. 378899).

[2] *Miranda v Arizona*, 384 US 436, 467-479; 86 S Ct 1602; 16 L Ed 2d 694 (1966).

the morning of September 25, 2024. As they did so, defendant stated he wanted to speak with whoever was in charge and confess.

Detective Sergeant Ben Krzymanski and Sergeant Nathan Kamp detained and later interrogated defendant. Before questioning commenced, defendant accepted an offer for cigarettes and a smoke break. Kryzmanski and Kamp accompanied defendant outside; they also recorded what was said as defendant smoked, though the audio is muffled and, at times, obscured by background noise. After the three made small talk for a few minutes, defendant said, "The faster we get this over with the better," followed immediately by a question: "Can we have a lawyer, too, present?" One of officers answered, "We can." Defendant replied, "I'd like to have a lawyer, if we—if we could do this quick."[3] Then, unprompted, defendant stated, "I'll tell you everything. I think—I think I can—I don't know." At that point, the conversation ceased.

Defendant was then taken back to the interrogation room, which was equipped with video and audio recording devices. When Kryzmanski and Kamp entered the room, the latter stated that "when we were outside you [defendant] said you wanted to get this over with quick, save the state some money, we can talk about that stuff, but you said you wanted a lawyer." The following exchange then occurred:

> *Kamp*. Do you have a specific lawyer that you want?
>
> *Defendant*. I don't—No.
>
> *Kamp*. Do you want us to try and get a public defender over here for ya?
>
> *Defendant*. I just wanted a lawyer here to—[*pause*]—keep me from saying anything—[*pause*]—I don't know, just start asking me questions and I'll just answer them for you.

Kamp responded that he was going to read defendant his *Miranda* rights and began explaining defendant's rights to counsel and to remain silent, including: that defendant had "the right to have a lawyer here" and to not be questioned until one was present; that defendant also had a right to speak without a lawyer and could "stop anytime if you don't like the way it's going"; that "[i]t's entirely up to you" how defendant would like to proceed in that regard; and that "if you're saying you want a lawyer, then we're probably done talking" until one could be secured and "[t]hat's fine, nobody's gonna be mad at you[.]" As Kamp was speaking, defendant interjected, "No, let's just do this. I don't want to waste any more time."

After Kryzmanski and Kamp left and returned with a second chair, Kamp recited defendant's *Miranda* rights and asked defendant if he understood his rights. Defendant responded in the affirmative, stating he would proceed without an attorney "for now," and signed a waiver of his rights. Defendant then proceeded to admit to killing the victim by strangulation after pushing him down a flight of stairs. He also admitted to dismembering the victim's body with an axe, and

[3] The audio recording at this juncture is not perfectly clear, but defendant represents on appeal that this is what he said, and our review of the recording gives us no reason to doubt that representation.

revealed where other body parts were located; officers thereafter discovered those body parts at the identified location.

At the ensuing preliminary-examination hearing, the prosecution introduced, among other evidence, defendant's incriminating statements from the police interview. At the end of the hearing, defendant raised a challenge to the admissibility of those statements, arguing that they had to be suppressed because the police violated his rights by continuing to question him after he had invoked his right to counsel. The prosecution responded that the statements were "lawfully obtained" and defendant's challenge "would be more appropriate at Circuit Court filed with a motion and the transcripts of today's proceeding versus making an oral motion right now on legal matters" to which the prosecution was "not as prepared to respond." The district court stated that it was "not ruling on those issues here" but that defendant's "challenge is still reserved for the Circuit Court," and concluded that defendant should be bound over on the above-mentioned charges based on the evidence and testimony presented at the hearing.

Once in circuit court, defendant filed a motion to suppress his incriminating statements and to quash the bindover for insufficient evidence. The circuit court held a *Walker* hearing[4] on the motion, at which it reviewed the pertinent audio and video recordings and received testimony from Krzyminski, Kamp, and defendant. After considering this evidence, the court denied both of defendant's motions. Defendant thereafter filed an application with this Court seeking leave to appeal the circuit court's orders, which this Court granted.

II. MOTION TO SUPPRESS

Defendant first argues that the circuit court erred in denying his motion to suppress because he clearly and unequivocally invoked his right to counsel as many as three times during the police interview, thereby rendering his subsequent waiver of his right to counsel invalid and his incriminating statements inadmissible. We disagree.

A. STANDARD OF REVIEW

"We review de novo a trial court's ultimate decision on a motion to suppress." *People v Mathews*, 324 Mich App 416, 424; 922 NW2d 371 (2018) (quotation marks and citation omitted). Our review is also de novo "[t]o the extent that a trial court's ruling on a motion to suppress involves an interpretation of the law or the application of a constitutional standard to uncontested facts[.]" *Id.* (quotation marks and citation omitted). Any factual findings a trial court makes in ruling on a motion to suppress are reviewed for clear error. See *People v Clark*, 330 Mich App 392, 415; 948 NW2d 604 (2019). Clear error exists "when this Court is left with a definite and firm conviction that the trial court made a mistake." *Id.*

B. DISCUSSION

"Statements of an accused made during custodial interrogation are inadmissible absent a voluntary, knowing, and intelligent waiver of the accused's Fifth Amendment rights." *People v*

[4] *People v Walker (On Rehearing)*, 374 Mich 331, 338; 132 NW2d 87 (1965).

Fenderson, ___ Mich ___, ___; ___ NW3d ___ (2026) (Docket No. 167391); slip op at 11, citing *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966). Such rights include "[t]he right to have counsel present during custodial interrogation." *People v Burnett*, ___ Mich App ___, ___; ___ NW3d ___ (2025) (Docket No. 372000); slip op at 4, citing *People v Tanner*, 496 Mich 199, 207; 853 NW2d 653 (2014). As this Court has well summarized,

> When a suspect unequivocally invokes this right to counsel, "the police must terminate their interrogation immediately and may not resume questioning until such counsel arrives." *People v Tierney*, 266 Mich App 687, 710-711; 703 NW2d 204 (2005). It is crucial that the invocation of this right be clear and unequivocal—"if a suspect makes a reference to an attorney that is ambiguous or equivocal in that a reasonable officer in light of the circumstances would have understood only that the suspect *might* be invoking the right to counsel, our precedents do not require the cessation of questioning." *Davis v United States*, 512 US 452, 459; 114 S Ct 2350; 129 L Ed 2d 362 (1994). It is also crucial that the request reflect a "present desire for counsel," not a future need. *People v Granderson*, 212 Mich App 673, 677; 538 NW2d 471 (1995).
>
> The test for whether a suspect clearly and unequivocally invoked his or her right to counsel is objective. *Davis*, 512 US at 458-459. [*Id.* at ___; slip op at 4.]

Ordinarily, when the accused receives a *Miranda* warning and affirmatively waives the rights recited therein, the prosecution may use his ensuing statements against him so long as the accused's waiver is voluntary, knowing, and intelligent. *Fenderson*, ___ Mich at ___; slip op at 13. After a suspect clearly and unequivocally invokes his right to counsel, however, a prophylactic "presumption of involuntariness" arises such that the "traditional standard for waiver [is] not sufficient to protect a suspect's right to have counsel present at a subsequent interrogation[.]" *Maryland v Shatzer*, 559 US 98, 104, 106; 130 S Ct 1213; 175 L Ed 2d 1045 (2010). Thus, once "the right is invoked, 'a valid waiver of that right cannot be established by showing only that [the suspect] responded to further police-initiated custodial interrogation even if he has been advised of his rights.' " *Burnett*, ___ Mich App at ___; slip op at 4, quoting *Edwards v Arizona*, 451 US 477, 484; 101 S Ct 1880; 68 L Ed 2d 378 (1981). Rather, post-invocation statements "are admissible only if counsel is made available to the suspect for questioning or if the state shows that the suspect himself reinitiated the investigation." *Fenderson*, ___ Mich at ___; slip op at 15.

Defendant contends that the circuit court's denial of his motion to suppress runs afoul of these principles. Beginning with the statements made during his smoke break, defendant argues that he first invoked his right to counsel when he asked, "Can we have a lawyer, too, present?" and then he invoked it again when, moments later, he said, "I'd like to have a lawyer—if we—if we could do this quick." Defendant likens these statements to *Burnett*, in which the defendant stated, "I want my lawyer"—a declaration which this Court described as "the quintessential language used to invoke one's right to counsel." *Burnett*, ___ Mich App at ___; slip op at 2, 5 n 6.

We find defendant's comparison to *Burnett* inapt, and that his statements during the smoke break fell short of the requisite "clear, unequivocal, and present demand for an attorney." *Burnett*, ___ Mich App at ___; slip op at 4. Defendant's first statement—"Can we have a lawyer, too, present?"—reflects an inquiry into how the questioning would be conducted when he and the

officers return from the smoke break. See *People v Adams*, 245 Mich App 226, 238; 627 NW2d 623 (2001) (finding the defendant's question, "Can I talk to him [a lawyer] right now?" to be part of his "inquiries into the way the process worked, not an actual demand for an attorney"). Defendant's process-oriented question signaled a potential "future need" of an attorney, but did not clearly and unequivocally express a "present desire" for one. *Burnett*, ___ Mich App at ___; slip op at 4 (quotation marks and citation omitted). Defendant's next statement, made shortly thereafter, was no more clear or unequivocal in that regard. Defendant stated, "I'd like to have a lawyer," but in the same breath said, "if we could do this quick." This, at most, reiterated defendant's potential future interest in an attorney's services during the questioning to follow, while further conditioning that potential interest on how quickly everything could occur. And then, in virtually his next breath, defendant said, "I'll tell you everything" before ultimately concluding with "I don't know." Viewing defendant's smoke-break statements objectively, we cannot find in them a "clear, unequivocal, and present demand for an attorney." *Burnett*, ___ Mich App at ___; slip op at 4.

Resisting this conclusion, defendant stresses that Kamp acknowledged that defendant "said [he] wanted a lawyer" once they returned to the interview room. But as noted, whether a defendant has clearly and unequivocally invoked the right to counsel is an objective inquiry, meaning that "an officer's subjective belief is neither determinative nor particularly persuasive." *Id.* at ___; slip op at 5. For the reasons discussed, such a clear and unequivocal invocation did not objectively occur during the smoke break. And considering the ambiguity and forward-looking nature of defendant's smoke-break statements, it is unsurprising that Kamp would attempt to follow up on that prior exchange now that questioning was about to begin, to determine whether defendant did, in fact, have a present desire for counsel at that point. Such clarifying questions are permissible and do not themselves render defendant's prior statements any more clear or unequivocal. See *Davis*, 512 US at 461 (describing such questions as "good police practice"); *Adams*, 245 Mich App at 239 (citing *Davis* approvingly for this proposition).

Finally, defendant posits that his response to Kamp's question—"I just wanted a lawyer here to . . . keep me from saying anything . . . I don't know, just start asking me questions and I'll just answer them for you"—was a third invocation of his right to counsel. As the statement itself makes clear, however, defendant's expressed interest in counsel is equivocal at best. Though he referred to wanting a lawyer, he did so in the past tense, speaking to why he had previously expressed interest in potentially having the assistance of counsel during questioning. And then, rather than state a present interest in such counsel, defendant, unprompted, invited his interrogators to question him. And nothing in the exchange that followed betrayed a present desire for counsel, either. To the contrary, when Kamp began explaining in detail defendant's rights to counsel and to remain silent, defendant confirmed that he wished to proceed with questioning without a lawyer present. And after Kamp subsequently read defendant his *Miranda* rights, defendant affirmed his understanding of them and that he wished to proceed without an attorney "for now"—again confirming that any need or desire for counsel was future and contingent, not presently demanded.

At bottom, an objective review of defendant's claimed invocations demonstrates that defendant referred to a lawyer and conveyed his potential interest in having one at some point in the future, depending on how the questioning may unfold. But defendant never made a "clear, unequivocal, and present demand for an attorney." *Burnett*, ___ Mich App at ___; slip op at 4. Accordingly, we see no merit in defendant's claim that his waiver of his right to counsel was

invalid, and no error in the circuit court's denial of defendant's motion to suppress his incriminating statements.

III. MOTION TO QUASH

Defendant's second claim on appeal is related to—and ultimately controlled by our disposition of—his first. According to defendant, the circuit court erred by refusing to quash his bindover because the district court's decision to bind him over was improperly based on the incriminating statements that he made during the police interview.

We review de novo the circuit court's denial of defendant's motion to quash "because the dispositive question is whether the district court abused its discretion in binding over defendant[ ]." *People v Burkman (On Remand)*, ___ Mich App ___, ___; ___ NW3d ___ (2024) (Docket Nos. 356600 and 356602); slip op at 8 (quotation marks and citation omitted). "An abuse of discretion occurs when a decision falls outside the range of reasonable and principled outcomes, and a trial court necessarily abuses its discretion when it makes an error of law." *Id.* at ___; slip op at 9 (quotation marks and citation omitted).

"At a preliminary examination, the prosecution must present evidence establishing that the defendant committed the charged offense, and the district court must find that probable cause exists to bind over a defendant for trial." *People v Murawski*, 349 Mich App 296, 303; 27 NW3d 673 (2023) (quotation marks and citation omitted). Defendant maintains that there was insufficient evidence to bind him over, but as discussed, we disagree with the premise of his sole argument to that effect—that, in making its probable-cause determination, the district court could not consider his incriminating statements because they were the product of a violation of his right to counsel and were thus inadmissible. Given our conclusion that these statements were not, in fact, procured through violation of defendant's right to counsel, we see no merit in this claim.[5]

Affirmed.

/s/ Philip P. Mariani
/s/ Kathleen A. Feeney
/s/ Christopher M. Trebilcock

[5] In a footnote, defendant briefly argues that the district court abused its discretion by refusing to rule on his challenge to the admissibility of his incriminating statements at the preliminary examination. From our review of the record, we do not find it clear that the district court simply declined to rule on this challenge entirely, rather than rejecting it for not being adequately presented at that time (as the prosecution argued) while making clear that defendant could still pursue the challenge, and suppression of the statements on its basis, in the circuit court. In any event, we do not see grounds for relief as to any potential error in this regard given our conclusion that defendant's admissibility challenge lacks merit.