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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v HASSAN ABID, Defendant-Appellant.	UNPUBLISHED September 15, 2026 12:02 PM No. 375849 Oakland Circuit Court LC No. 2024-291296-FH

Before: LETICA, P.J., and RICK and GARRETT, JJ.

PER CURIAM.

Defendant, Hassan Abid, appeals as of right his jury-trial conviction of third-degree fleeing and eluding, MCL 257.602a(3)(b).[1] He was sentenced to six-months' probation, two days in jail with credit for two days served, and ordered to successfully complete a driving course. On appeal, defendant contends that the trial court erred in giving a flight instruction because his offense encompasses flight and erred in the improper admission of prior acts evidence involving defendant's police contacts. We affirm.

[1] MCL 257.602a(1): "A driver of a motor vehicle who is given by hand, voice, emergency light, or siren a visual or audible signal by a police . . . officer, acting in the lawful performance of his or her duty, directing the driver to bring his or her motor vehicle to a stop shall not willfully fail to obey that direction by increasing the speed of the motor vehicle, extinguishing the lights of the motor vehicle, or otherwise attempting to flee or elude the officer. This subsection does not apply unless the police . . . officer giving the signal is in uniform and the officer's vehicle is identified as an official police or department of natural resources vehicle."

MCL 257.602a(3): "Except as provided in subsection (4) or (5), an individual who violates subsection (1) is guilty of third-degree fleeing and eluding, a felony punishable by imprisonment for not more than 5 years or a fine of not more than $1,000.00 or both, if 1 or more of the following circumstances apply: * * * (b) A portion of the violation occurred in an area where the speed limit is 35 miles an hour or less, whether that speed limit is posted or imposed as a matter of law."

I. FACTUAL AND PROCEDURAL HISTORY

On Saturday, August 17, 2024, the Woodward Dream Cruise[2] was held. Berkley Public Safety Sergeant Dennis Geary worked patrol and supervised the day shift. He testified that, to apprehend someone for a moving violation, an officer could activate the police vehicle's lights and sirens. If not in a vehicle, hand motions and verbal commands may be used.

Sergeant Geary was working at the intersection of Twelve Mile Road (Twelve Mile) and Coolidge Highway (Coolidge) at 9:35 p.m. He was wearing a full police bike uniform. It consisted of a blue polo shirt with reflective sleeves, a yellow traffic vest with the word "POLICE" in capital letters across the chest and back, and a baseball hat with a police badge displayed on the top. That day, shut down procedure began at 9:00 p.m. and consisted of forcing all traffic off Woodward Avenue (Woodward) to reflect that the event had ended. Traffic was required to travel westbound on Twelve Mile toward Coolidge with no other option. Sergeant Geary was directing the traffic through the intersection and stopped traffic for pedestrians walking on the sidewalks. Eastbound traffic was diverted to southbound Coolidge. Barricades, traffic cones, police tape, marked police cars with lights activated, and police officers with yellow vests and flashlights were used to demonstrate that various roads, such as northbound Coolidge was shut down. The majority of police contacts typically involved helping people navigate a new route home in light of the barricades. Sergeant Geary stopped multiple people by just gesturing with his hand out.

Sergeant Geary was directing traffic when he heard a motorcycle. He turned to see a single headlight coming north toward him. The driver, later determined to be defendant, appeared to exceed the posted speed limit of 30 miles per hour (mph) and had driven around a barricade. Sergeant Geary walked south toward the motorcycle with his hand and flashlight held out in a stop or halt manner to get the driver's attention. Sergeant Geary pointed his flashlight at the driver. He could see there was a passenger on the back. Both defendant and the passenger were wearing full-face helmets; the entire head and chin area was covered by the helmet and a face shield. Defendant looked at the sergeant and "gassed" it into the gas station located at the intersection. Sergeant Geary yelled out "Hey," in an attempt to get the driver's attention. He anticipated that the driver would stop. Although Sergeant Geary did not yell out, "Stop," his hand gesture reflected his request. And earlier, this gesture caused other people to stop and turn around without incident. But defendant gassed it again and rode up on the sidewalk near the apron or entryway of the police department located behind the gas station. Sergeant Geary opined that defendant saw him because immediately after the attempted contact, he drove off. Defendant drove into the gas station and traveled on the sidewalk to re-enter eastbound Twelve Mile. That evening, defendant was the only one that did not stop for Sergeant Geary.

Defendant drove past a marked patrol unit stationed east of Coolidge on Twelve Mile. The officer in the marked unit, Berkley Public Safety Officer Marc Robinson, activated his overhead lights and siren to engage and stop defendant. In light of training and experience, Sergeant Geary opined that, from the sound of the motorcycle, defendant was traveling at least double the speed

[2] In the record, the Woodward Dream Cruise was described as a classic car parade that drew thousands of people along Woodward Avenue. Because of the nature of the event, there was a significant police presence.

limit on Twelve Mile (posted speed of 35 mph) because the bike traveled a great distance in a short amount of time. Officer Robinson's marked unit appeared to follow the motorcycle so Sergeant Geary continued to direct traffic for pedestrians in the intersection.

Berkley Detective Lieutenant Andrew Hadfield (Det. Hadfield) was the incident commander for the cruise. Each year, the city closed intersections including Twelve Mile and Woodward, Eleven Mile and Woodward, and Twelve Mile and Coolidge. He was in the median at the intersection of Twelve Mile and Woodward when he heard a motorcycle approaching at a high rate of speed. Over the radio, he heard an officer report that a motorcycle failed to stop for him. Det. Hadfield could see the police vehicle with its lights activated traveling down Twelve Mile. The police vehicle was a distance behind the red motorcycle. By stature, defendant appeared to be a male traveling with a female passenger. The intersection was coned off; drivers could not turn onto Woodward from Twelve Mile. Any such turn there would have been against the directive of the police and the traffic control devices in place. Defendant turned and drove behind the businesses. Det. Hadfield watched to see if defendant came out from behind the businesses. He motioned for two officers to go to the back because the patrol car appeared to be searching for the motorcycle.

From Det. Hadfield's viewpoint, defendant drove at a high rate of speed with a marked, lights and siren-activated police vehicle traveling behind him. Audio communication indicated that the motorcycle did not stop for the officer, and defendant made an "evasive maneuver in the back" of the businesses. Det. Hadfield learned that Officer Robinson stopped defendant behind the back corner of the businesses.

Officer Robinson was assigned to patrol Twelve Mile during the process of shutting down the Dream Cruise. He was in a fully marked patrol vehicle. The police car had lights on the roof, a push bar, and fully visible decals. Officer Robinson was in a full uniform containing "police" identification. He positioned his vehicle near the police station off Twelve Mile. The vehicle's windows were down. He heard the revving of an engine to his left, and an officer said something to the effect of "stop" and "what are you doing." Officer Robinson saw defendant drive his red motorcycle over the sidewalk straight toward his patrol vehicle. He pulled out to block the area and to prevent defendant from continuing to drive down the middle of the sidewalk. Defendant drove "pretty fast" around the front of the police vehicle, proceeded onto Twelve Mile, and accelerated at a high rate of speed as he drove away.

Before defendant drove away, Officer Robinson extended his hand out the window in a manner to say stop by holding up his hand and displaying his fingers. He said something to the effect of, "What are you doing?" The stop gesture was designed to end defendant's driving on the sidewalk. Officer Robinson activated his lights when defendant was in front of the police car, but defendant continued out, causing the police pursuit on Twelve Mile by Officer Robinson. He concluded that defendant ignored his instructions. Defendant turned onto Twelve Mile and accelerated at a high rate of speed, traveling eastbound toward Woodward. Officer Robinson's vehicle lights were already activated. He pulled onto Twelve Mile, turned on his siren, and radioed information about defendant's motorcycle and its direction. At the end of his radio transmission, Officer Robinson learned that defendant had already arrived at Twelve Mile and Woodward, indicating he traveled at a high rate of speed. Initially, Officer Robinson attempted to catch up with defendant, but stopped this effort after reaching 64 mph, deeming it unsafe. The officer

estimated that defendant traveled between 70 and 80 mph but the posted speed limit was 35 mph. He advised dispatch that he was not chasing the motorcycle, but in pursuit. Officer Robinson believed that, unless defendant went through a set of barricades, he was trapped in the area of Twelve Mile and Woodward because of the police presence and "funneling" of traffic. Additionally, he knew the strip mall and parking lot that defendant drove into because of the brake lights on the motorcycle.

Other officers ran up to Officer Robinson and advised where defendant had traveled, and he was located behind the Crispelli's restaurant. Between dash and body camera video, the interaction was recorded. Defendant and his passenger remained on the running motorcycle. Officer Robinson got out of his patrol car, ordered them to turn off the motorcycle, put the kickstand down, and get off. Defendant advised that he had a gun.

The video was played for the jury. It depicted Officer Robinson asking defendant what he was doing. Instead, defendant accelerated and left the gas station. Officer Robinson activated his emergency lights. He made the decision not to chase defendant because of safety issues in light of all the foot traffic, pedestrians, and cars in the area. But he continued to look for defendant. Officer Robinson's dash camera footage lasted 40 minutes and was admitted at trial, but the prosecutor played the first two minutes for the jury. It depicted defendant's attempt to stop defendant, his acceleration at a high rate of speed away from the officer, and defendant's location on his motorcycle behind businesses.

Officer Robinson noted that defendant's passenger was tapping on defendant's shoulder as he drove away from the officer. Additionally, she turned to look over her right shoulder. Officer Robinson had expected defendant to stop in light of his hand gesture. But instead, he accelerated away. On cross-examination, Officer Robinson acknowledged that defendant did not leave his motorcycle and run away. And defendant advised the officer that he had a gun, and he had a concealed weapons permit. Although defendant moved for a directed verdict, the request was denied.

Defendant testified that he was 35-years-old and originally from Pakistan. He moved to the United States in 2012 to attend college, studying electrical and computer engineering. Defendant ultimately obtained three bachelor's and one master's degree and currently worked as a design engineer. He received his driver's license in 2012 and a motorcycle endorsement in 2015. Defendant rode "crotch rockets" even when he lived in Pakistan. In 2023, he purchased his motorcycle, a red Ducati V45. The mirrors on his motorcycle were not altered from the manufacturer and showed the blind spot areas on the left and right and the area behind.

In the evening of August 17, 2024, defendant was traveling on his motorcycle to Mod Pizza located at Thirteen Mile and Woodward with his passenger, his friend's girlfriend's daughter. Defendant relied on his GPS, but when he came to Woodward, the police were "redirecting the traffic." Defendant's GPS led him to Twelve Mile and Coolidge where there was a "road[]block" and a gas station was present on the right side. Specifically, he could not travel north because of "barricades and cones." The gas station was "the only place to go." "[T]here was a person who was showing [defendant] the light to get [him] out of there." Defendant did not hear anything or anyone yelling at him to stop and pull over. A person with a flashing light gestured for defendant to leave. Defendant saw "a cop backing up his car" and thought that he was supposed to travel

over the sidewalk in front of the car. Because the motorcycle's exhaust system was located under his feet, defendant could not have hopped the curb in order to enter the main road; such action would have destroyed the motorcycle's underbody.

Ultimately, defendant believed that the officer that backed up his vehicle was the same officer that arrested defendant. But defendant never heard the officer say anything. There was no command to stop or hand gesture. Defendant testified that if he saw an officer with a hand out or a command to stop, he would have stopped right away. And the officer did not activate his overhead lights on the vehicle. Defendant claimed that when he drove off he did not hear sirens behind him. Additionally, he could not see blue and red lights in his rearview mirror because of the presence of a passenger. Defendant was traveling toward the end of Twelve Mile when he was tapped by his passenger. He stopped in the Crispelli's restaurant parking lot in order to hear her. He did not just stop on the road because he "didn't want to be in danger" in light of the traffic. Initially, defendant pulled into the back of the Berkley Square Plaza but it was dark there. He moved to the side where there was more light.

Defendant was stopped on his motorcycle when he was approached by Officer Robinson's police car. He had learned from his passenger that a police officer had been traveling behind them. Defendant just sat on the motorcycle with the engine running because he was "waiting." Defendant testified that he would never run from the police if he knew they were pulling him over, answering, "Absolutely not." He asserted that no officer directed him to stop or pull over because he would have stopped. Defendant denied having any warrants, drugs, or drinking.

Defendant was waiting in the parking lot for three to four minutes before he made contact with Officer Robinson. At trial, defendant was asked, "Have you had prior contact with law enforcement for traffic stops?" He answered, "Yes, I did." He stated that he never failed to stop, but stopped "[e]very single time." Defendant's motorcycle did not have aftermarket exhaust features, but was manufactured as "loud."

That day, defendant wore a thick motorcycle jacket that extended to his wrists. Defendant and his passenger were wearing full-face helmets. Such helmets covered the entire face, had a visor in the front, and muffled one's hearing.

On cross-examination, the prosecutor inquired about defendant's testimony on direct examination by his counsel regarding past police contacts, and he answered that he never gave the police a hard time. Defendant admitted that he had 17 prior police contacts. He acknowledged that he owned his motorcycle, it came with a rearview mirror, it was very fast, and he took a seven-day class to obtain the license endorsement. In the training, defendant was taught to drive with caution and to look in his mirrors. He acknowledged that more caution should be taken on a motorcycle because of the escalated risk of danger. Defendant denied the contention that he disregarded a command to stop and fled the police. Defendant continued to assert that if he had been aware of the police contact, he would have stopped sooner. Despite defendant's contention that he was unaware that the police were attempting to stop him, the jury convicted him as charged.

II. FLIGHT INSTRUCTION

Defendant first alleges that he was denied a fair trial by the jury instruction on flight, M Crim JI 4.4. We disagree.

A party must object to the jury instructions before the jury deliberates to preserve an appellate challenge. *People v Carines*, 460 Mich 750, 767; 597 NW2d 130 (1999); *People v Head*, 323 Mich App 526, 537; 917 NW2d 752 (2018). A contemporaneous or timely objection affords the trial court the opportunity to correct the error, eliminates the need for further legal proceedings, and provides the best time to address a defendant's rights. *Carines*, 460 Mich at 764-765. "The failure of the court to instruct on any point of law shall not be ground for setting aside the verdict of the jury unless such instruction is requested by the accused." MCL 768.29; see also *People v Marr*, 13 Mich App 642, 644; 164 NW2d 678 (1968) ("Additionally [the] defendant on appeal charges several errors in the charge of the trial court. No objections to the charge were made at the trial. We will not consider objections to the charge on appeal not made at time of trial except to prevent a miscarriage of justice.").

Although defendant contends that this issue is preserved for appeal,[3] we disagree because defense counsel never gave a reason for his objection, only a wish to challenge the instructions on appeal. After the prosecutor requested the flight instruction, the trial court stated, "And then, there was evidence regarding potential flight, so I think that's appropriate to read." In response, defense counsel stated, "I suppose, just for the record, I would object to that additional instruction. I – I would – just for potential appeal purposes, I'd like to preserve the record that I - - I don't stipulate to the - - that particular instruction, which was - -"

The trial court asked for the grounds upon which defendant objected:

> I mean, based on what? There is evidence the prosecution introduced that there was flight. I know that you're disputing that. Obviously, you're disputing that your client did anything wrong, but the - - the - - 4.04 [sic] is saying there's been some evidence that the defendant tried to run away, tried to hide, ran away, or hid after the alleged crime he was accused of. This evidence does not prove guilt. A person may run or hide for innocent reasons such as panic, mistake, or fear, but they may also run or hide because of consciousness of guilt. You decide whether the evidence is true, and whether you think that it shows the defendant had a guilty state of mind.

[3] On appeal, defendant acknowledges that trial counsel objected to "preserve the record." He then states, "Although he did not expand his argument at length, the objection was based on his position that the evidence did not support a finding of intentional flight or concealment." But this argument is inconsistent with the claims raised on appeal that challenge the interaction and alleged overlap between the charged offense and the flight instruction and the speculation regarding the jury's resolution of intent.

> I think it's appropriate. The prosecution has introduced evidence. It's a standard instruction as well. It's not a special instruction.

After being told that there was evidence to support the instruction, defendant did not offer the objection raised on appeal, claiming that evidence of flight was essentially included in the instruction for third-degree fleeing and eluding and that it allowed the jury to avoid deciding the intent element. The decision to object at trial without providing an underlying rationale was insufficient to preserve the issue for appeal. *Carines*, 460 Mich at 764-765.

Unpreserved claims of instructional error are reviewed for plain error affecting a defendant's substantial rights. *Carines*, 460 Mich at 764; *People v Miller*, 326 Mich App 719, 725-726; 929 NW2d 821 (2019). "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *Carines*, 460 Mich at 763. "The third requirement generally requires a showing of prejudice, i.e., that the error affected the outcome of the lower court proceedings." *Id*. "It is the defendant rather than the Government who bears the burden of persuasion with respect to prejudice." *Id*. (quotation marks and citation omitted). Even if a defendant satisfies these three elements, "[r]eversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when an error seriously affected the fairness, integrity or public reputation of judicial proceedings independent of the defendant's innocence." *Id*. (quotation marks and citation omitted; second alteration in original).

"A criminal defendant is entitled to have a properly instructed jury consider the evidence against him." *People v Flores*, 346 Mich App 602, 612; 13 NW3d 668 (2023) (quotation marks and citation omitted). When a defendant claims instructional error, this Court examines the instructions as a whole not piecemeal to establish error. *Id*. Somewhat imperfect instruction do not create error if the issues to be tried are fairly presented and sufficiently protects the defendant's rights. *Id*.

We conclude that defendant failed to demonstrate plain error affecting substantial rights arising from the presentation of the flight instruction to the jury.

The trial court instructed the jury regarding flight[4]:

[4] M Crim JI 4.4 entitled "Flight, Concealment, Escape or Attempted Escape" provides:

> (1) There has been some evidence that the defendant [tried to run away / tried to hide / ran away / hid] after [the alleged crime / (he / she) was accused of the crime / the police arrested (him / her) / the police tried to arrest (him / her)].
>
> (2) This evidence does not prove guilt. A person may run or hide for innocent reasons, such as panic, mistake, or fear. However, a person may also run or hide because of a consciousness of guilt.
>
> (3) You must decide whether the evidence is true, and, if true, whether it shows that the defendant had a guilty state of mind.

> There's been some evidence that the defendant tried to run away, tried to hide, ran away or hid *after* the alleged crime he was accused of. The evidence does not prove - - this evidence does not prove guilt. A person may run or hide for innocent reasons such as panic, mistake, or fear. However, a person may run or hide because of a consciousness of guilt. You must decide whether the evidence is true, and if true, whether it shows that the defendant had a guilty state of mind. [Emphasis added.]

The elements of third-degree fleeing and eluding are:

> (1) the law enforcement officer must have been in uniform and performing his lawful duties and his vehicle must have been adequately identified as a law enforcement vehicle, (2) the defendant must have been driving a motor vehicle, (3) the officer, with his hand, voice, siren, or emergency lights must have ordered the defendant to stop, (4) the defendant must have been aware that he had been ordered to stop, (5) the defendant must have refused to obey the order by trying to flee from the officer or avoid being caught, which conduct could be evidenced by speeding up his vehicle or turning off the vehicle's lights among other things, and (6) some portion of the violation must have taken place in an area where the speed limit was thirty-five miles an hour or less, or the defendant's conduct must have resulted in an accident or collision, or the defendant must have been previously convicted of certain prior violations[.] [*People v Grayer*, 235 Mich App 737, 741; 599 NW2d 527 (1999).]

Although defendant contends that the flight instruction overlapped with the elements of third-degree fleeing and eluding, he fails to delineate and analyze the elements. Here, Officer Robinson testified that he was in uniform and driving a marked police vehicle. Defendant approached on a motorcycle, and Officer Robinson testified that he held his hand out the window to stop defendant from driving on the sidewalk. Defendant testified that he was unaware that he was ordered to stop and claimed that he thought Officer Robinson moved to allow defendant to leave. On the contrary, Officer Robinson opined that defendant was aware of the request that he stop because of the hand gesture, the activation of the lights, and the speed at which defendant left the scene. Officer Robinson testified that the speed limit on Twelve Mile was 35 mph in that area. Thus, there was sufficient evidence admitted at trial to support the elements of third-degree fleeing and eluding.

Mere departure or walking away from the scene of a crime is insufficient to support the giving of the flight instruction. *People v Hall*, 174 Mich App 686, 691; 436 NW2d 446 (1989). But feared apprehension at the time one leaves the scene after committing a crime may provide evidentiary support for the instruction. See *id*. When a defendant fled or ran away after the alleged crime was committed and when the police were approaching, the rational view of the evidence supports the flight instruction. *People v Armstrong*, 305 Mich App 230, 240; 851 NW2d 856 (2014).

We reject defendant's contention that the flight instruction is subsumed within the commission of third-degree fleeing and eluding. Defendant admittedly rode his motorcycle on the sidewalk of a gas station that was blocked off by cones. Officer Robinson testified that he directed defendant with a hand gesture and then activated the lights on his police vehicle. Despite that direction, defendant left the scene at a high rate of speed. Officer Robinson opined that defendant was aware that he was a police officer and commanded him to stop because of the speed at which defendant left the scene. Defendant claimed that he thought he was being told to leave the area. The credibility of defendant's knowledge and his intent presented an issue for the jury to resolve. See *People v Anderson*, 322 Mich App 622, 632-633; 912 NW2d 607 (2018) (it is the province of the jury to resolve issues of credibility and intent).

The flight instruction applies to conduct *after* the completed crime. Defendant claimed he was unaware that he was asked to stop at the gas station by a police officer. Yet, defendant then proceeded to drive off with a police vehicle behind him with activated lights and sirens. Defendant claimed that he could not see any lights because of his passenger and could not hear because of his helmet. But he acknowledged that the passenger was tapping his shoulder. Defendant did pull over, but went to the back parking lot of a business. There was evidence to support the flight instruction because defendant drove an estimated 70 to 80 mph away from the gas station, contact was attempted by his passenger but he did not stop, and when he did stop, he did so in the back area of a business. Defendant's challenge to the flight instruction in light of the elements of third-degree fleeing and eluding does not entitle him to appellate relief. Defendant's actions *after* the officer gestured to stop and activated his lights supported the flight instruction. *Armstrong*, 305 Mich App at 240.

Finally, defendant argues that the third-degree fleeing and eluding charge and the flight instruction may have caused the jury to abandon its obligation to decide intent. But the jury is presumed to follow its instructions. *People v Mahone*, 294 Mich App 208, 217-218; 816 NW2d 436 (2011). There is no indication that the flight instruction caused juror confusion regarding the elements of third-degree fleeing and eluding. Without any record evidence, it is pure speculation. *Id*. Defendant failed to show plain error affecting his substantial rights arising from his failure to state a legal challenge to the flight instruction.

III. PRIOR ACTS OF POLICE ENCOUNTERS

Next, defendant contends that it was erroneous to admit MRE 404(b) evidence regarding prior police contacts and there was no notice of an intent to introduce this evidence. Because defendant opened the door to this testimony, reversal is not warranted. And, in any event, he failed to show plain error affecting his substantial rights.

"To preserve an evidentiary issue for review, a party opposing the admission of evidence must object at trial and specify the same ground for objection that it asserts on appeal." *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001). Defendant did not object to the prosecutor's questioning of defendant regarding the number of his prior police contacts. This issue is not preserved for appellate review.

An appellate court reviews a trial court's decision to admit or exclude evidence for an abuse of discretion. *People v Edwards*, 328 Mich App 29, 34; 935 NW2d 419 (2019). "Unpreserved

claims of evidentiary error are reviewed for plain error affecting the defendant's substantial rights." *People v Brown*, 326 Mich App 185, 195; 926 NW2d 879 (2019) (quotation marks and citation omitted). Under the plain-error standard, a defendant must demonstrate that (1) an error occurred, (2) that the error was clear or obvious, and (3) that the error affected substantial rights. *Carines*, 460 Mich at 763. If these requirements are satisfied, the appellate court may exercise its discretion regarding reversal. Reversal is only warranted when the error "resulted in the conviction of an actually innocent defendant or when an error that seriously affect[ed] the fairness, integrity or public reputation of judicial proceedings independent of the defendant's innocence." *Id.* (quotation marks and citation omitted; alteration in original).

As an initial matter, we note that defendant's statement of the issue challenges the admission of the evidence under MRE 403 and MRE 404(b) and the prosecutor's failure to provide the appropriate notice. But defendant was the first party to introduce evidence of his prior contacts with the police and to elicit that he previously stopped for the police during those incidents. There is no indication that the prosecutor contemplated admission of such other-acts evidence and that she would have been required to give notice. Additionally, defendant does not allege in the statement of questions presented that the prosecutor engaged in error or misconduct by introducing the number of contacts or that his trial counsel was ineffective for failing to object to the prosecutor's inquiry. But because defendant failed to include prosecutorial misconduct in his statement of questions presented or any substantive analysis in the text of his brief, any such claim was abandoned. See MCR 7.212(C)(5); *People v Payne*, 285 Mich App 181, 188; 774 NW2d 714 (2009).

Moreover, "a party may not harbor error at trial and then use that error as an appellate parachute." *People v Szalma*, 487 Mich 708, 726; 790 NW2d 662 (2010). That is, a party may not waive objection to an issue before the trial court and then challenge it as "error" on appeal. *People v Carter*, 462 Mich 206, 214-215; 612 NW2d 144 (2000). In the present case, defendant introduced evidence that he had prior police contacts and, during those interactions, he obeyed police commands. When the prosecutor questioned defendant regarding the large number of contacts, defense counsel did not object. Instead, on redirect examination, defense counsel reinforced that in all of those contacts, defendant always stopped for the police. The questioning during the trial does not reflect improper admission of MRE 404(b) evidence by the prosecutor. Instead, it indicates defendant's introduction of the evidence and a purposeful failure to object to the prosecutor's question because it reinforced defendant's theory of the case: that he routinely stopped for police-initiated contact but that he did not stop on this occasion because he did not see a gesture to stop or hear a command.

Indeed, a defendant's direct examination testimony may open the door for the prosecutor to further question a defendant on the subject matter. *People v Benton*, 294 Mich App 191, 201; 817 NW2d 599 (2011). Defendant introduced the evidence of prior contacts to show his compliance. The prosecutor was entitled to expand on defendant's testimony. Moreover, at sentencing, it was revealed that those prior contacts resulted in tickets for reckless driving. Nonetheless, the prosecutor only questioned defendant about prior contacts and did not seek to introduce the results of those contacts. This claim of error, as improper admission of MRE 404(b) evidence, is not supported by the record.

With regard to other-acts evidence:

> MRE 404(b)(1) provides that evidence of other crimes, wrongs, or acts is inadmissible to prove a person's character to show action in conformity therewith. However, such evidence is admissible for a proper purpose, such as proof of motive, opportunity, intent, preparation, scheme, plan, or scheme in doing an act. In determining the admissibility of other-acts evidence, the trial court must determine (1) whether the evidence is offered for a proper purpose under MRE 404(b), (2) whether the evidence is relevant under MRE 401 and 402, and (3) whether the probative value of the evidence is substantially outweighed by unfair prejudice under MRE 403. *People v VanderVliet*, 444 Mich 52, 74-75; 508 NW2d 114 (1993). Also, upon request, the trial court may provide a limiting instruction. *Id.* at 75. [*People v Roscoe*, 303 Mich App 633, 645-646; 846 NW2d 402 (2014).]

Notably, the threshold for relevant evidence is minimal. *Id.* at 646.

Contrary to defendant's assertion, it does not appear that the prosecutor sought to admit other-acts evidence. At trial, the prosecutor did not call police officers that previously stopped defendant and delineate the nature of their contacts with him. Thus, it is impossible to address whether prior other-acts evidence would have been admissible because the prior acts were not presented through police witnesses, any passengers present with defendant at the time of a stop, or even police reports. Because there was never any discussion about admitting prior contacts, it is impossible to conclude that the criteria for admission of the evidence was improper. *Roscoe*, 303 Mich App at 645-646.

Finally, evidence that is responsive to material presented by the defense or to a defense theory is properly classified as rebuttal evidence. *People v Figgures*, 451 Mich 390, 399; 547 NW2d 673 (1996). While defendant seemingly indicated that he did not flee and elude because he had a history of obeying police officers' orders, the prosecutor theorized that defendant's actions were disingenuous. That is, if defendant would be unaware of a police command through words or acts to stop and to pull over promptly, why did he next drive off at a high rate of speed and wait behind a restaurant? The prosecutor may have highlighted the large number of police contacts but did not argue the import of the prior contacts. Only defendant claimed that it was an issue of significance and it favored him because he acted consistent with his past practice when being stopped by the police. Defendant has failed to establish any error, let alone, plain error affecting his substantial rights.

Affirmed.

/s/ Anica Letica
/s/ Michelle M. Rick
/s/ Kristina Robinson Garrett