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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 19, 2026 10:09 AM
v	No. 375949 Menominee Circuit Court
BOUNLIAM KHIDSUKHUM, Defendant-Appellant.	LC No. 2024-004661-FC

Before: O'BRIAN, P.J., and CAMERON and MALDONADO, JJ.

PER CURIAM.

Defendant appeals by right his jury-trial conviction of possession of a controlled substance with intent to deliver, MCL 333.7401(2)(b)(*i*). Defendant was sentenced as a fourth-offense habitual offender, MCL 769.12, to 15 to 45 years' imprisonment. We affirm.

I. FACTUAL AND PROCEDURAL BACKGROUND

This case arises from defendant's possession and attempted sale of methamphetamine. In August 2024, Michigan State Trooper John Edwards received a tip from a confidential informant regarding an individual known on Facebook as "Booski King," who was allegedly selling large amounts of drugs. Trooper Edwards, who was part of the Upper Peninsula Substance Enforcement Team (UPSET), sent a friend request to King using a fake female Facebook profile with the name Candace, or "Candy." King accepted the request and initiated a conversation with "Candy." The two began exchanging messages on Facebook and eventually communicated by text message. During these conversations, King sent photographs depicting large amounts of methamphetamine and a photograph of his face. Officers used the latter photograph to identify "King" as defendant.

Over the following weeks, Candy and defendant spoke almost daily, and negotiated a methamphetamine sale. To facilitate the sale, defendant, who lived in Wisconsin, agreed to meet Candy at a Michigan casino and resort. Candy told defendant that she would arrange for them to stay in the presidential suite. In September 2024, defendant traveled to the casino, where UPSET officers arrested him. Although defendant did not have any weapons or drug paraphernalia on his person when he was arrested, officers found slightly more than 413 grams of methamphetamine in the center console of his vehicle.

The jury convicted defendant, and he was sentenced as noted. Defendant moved for a new trial, arguing that his trial counsel was ineffective for failing to raise an entrapment defense. Defendant argued officers induced him to commit a crime by offering excessive consideration for the sale of methamphetamine, implicitly offering sexual favors and sending flirtatious text messages, and specifically targeting him based on information from a confidential informant.

The trial court denied defendant's motion, concluding that trial counsel was not ineffective for failing to raise an entrapment defense because "[d]efendant was not entrapped" and there was no likelihood that an entrapment defense would have been successful. This appeal followed.

II. STANDARDS OF REVIEW

"[W]hether defense counsel performed ineffectively is a mixed question of law and fact; this Court reviews for clear error the trial court's findings of fact and reviews de novo questions of constitutional law." *People v Trakhtenberg*, 493 Mich 38, 47; 826 NW2d 136 (2012). Clear error occurs when this Court has a "definite and firm conviction that the trial court made a mistake." *People v Douglas*, 496 Mich 557, 592; 852 NW2d 587 (2014) (quotation marks and citation omitted). "A trial court's decision on a motion for new trial is reviewed for an abuse of discretion, which occurs when the trial court renders a decision falling outside the range of principled decisions." *People v Dimambro*, 318 Mich App 204, 212; 897 NW2d 233 (2016) (quotation marks and citation omitted).

III. ANALYSIS

Defendant argues that he is entitled to a new trial because trial counsel was ineffective for failing to raise an entrapment defense. We disagree.

"Both the Michigan and the United States Constitutions require that a criminal defendant enjoy the assistance of counsel for his or her defense." *Trakhtenberg*, 493 Mich at 51. To succeed on a claim of ineffective assistance of counsel, "a defendant must show that (1) counsel's performance fell below an objective standard of reasonableness and (2) but for counsel's deficient performance, there is a reasonable probability that the outcome would have been different." *Id*. A reasonable probability is one that undermines confidence in the result of the trial. *Strickland v Washington*, 466 US 668, 694; 104 S Ct 2052; 80 L Ed 2d 674 (1984). The defendant bears the burden of proving any deficiency of counsel. *People v Head*, 323 Mich App 526, 539; 917 NW2d 752 (2018). Counsel is presumed to be effective, *Strickland*, 466 US at 690, and "a defendant must overcome the strong presumption that counsel's performance was born from a sound trial strategy[,]" but strategic decisions must still be objectively reasonable, *Trakhtenberg*, 493 Mich at 52. "Failing to advance a meritless argument or raise a futile objection does not constitute ineffective assistance of counsel." *People v Ericksen*, 288 Mich App 192, 201; 793 NW2d 120 (2010).

"Entrapment occurs if (1) the police engage in impermissible conduct that would induce an otherwise law-abiding person to commit a crime in similar circumstances or (2) the police engage in conduct so reprehensible that the court cannot tolerate it." *People v Fyda*, 288 Mich App 446, 456; 793 NW2d 712 (2010). "However, where law enforcement officials present nothing more than an opportunity to commit the crime, entrapment does not exist." *People v Johnson*, 466

Mich 491, 498; 647 NW2d 480 (2002). Moreover, "[a]n official may employ deceptive methods to obtain evidence of a crime as long as the activity does not result in the manufacturing of criminal behavior." *People v Vansickle*, 303 Mich App 111, 117; 842 NW2d 289 (2013) (quotation marks and citation omitted). When determining whether police conduct would induce criminal conduct, courts may consider:

> (1) whether there existed appeals to the defendant's sympathy as a friend, (2) whether the defendant had been known to commit the crime with which he was charged, (3) whether there were any long time lapses between the investigation and the arrest, (4) whether there existed any inducements that would make the commission of a crime unusually attractive to a hypothetical law-abiding citizen, (5) whether there were offers of excessive consideration or other enticement, (6) whether there was a guarantee that the acts alleged as crimes were not illegal, (7) whether, and to what extent, any government pressure existed, (8) whether there existed sexual favors, (9) whether there were any threats of arrest, (10) whether there existed any government procedures that tended to escalate the criminal culpability of the defendant, (11) whether there was police control over any informant, and (12) whether the investigation was targeted. [*Fyda*, 288 Mich App at 457 (quotation marks and citation omitted).]

Here, defendant argues that Factors 5, 8, and 12 apply to his case. The record, however, belies defendant's claims.

First, defendant argues that Candy offered to purchase methamphetamine at a price "far above" market value. But defendant presented no evidence in the trial court establishing the offered price was excessive. Moreover, the record shows that defendant offered to sell methamphetamine to Candy at a discounted price. That evidence undermines defendant's contention that the consideration offered by Candy was so excessive as to induce an otherwise law-abiding person to commit the offense. Thus, defendant has not established that Factor 5 supports his entrapment claim.

Second, defendant argues that Candy's flirtatious messages and her offer to secure the presidential suite were "implicit" offers of sexual favors. The record does not support that characterization. Although the parties exchanged hundreds of messages, none mentioned or implied that Candy would provide sexual favors in exchange for the drug sale. To the contrary, *defendant* initiated the flirtatious exchanges and made sexual innuendos. Candy did not escalate the sexual tone of the messages and often redirected defendant's advances to the proposed drug sale. The context surrounding the hotel arrangements further undermines defendant's argument. Defendant initially suggested that they meet at a hotel to complete the sale. Candy offered to arrange the presidential suite only after defendant asked her to book a room and he indicated that it would be easier to get a room because it was a weeknight. Nothing in these exchanges support the inference that defendant was offered sexual favors to induce defendant to sell methamphetamine. Accordingly, Factor 8 does not support defendant's entrapment claim.

Finally, defendant argues that Factor 12 applies because police targeted him based on information from a confidential informant. It is true that Trooper Edwards sent defendant a friend request because of information about King from a confidential informant. But the use of

information to initiate an investigation does not, by itself, establish impermissible inducement. Trooper Edwards testified that he did not initially know King's identity. Officers identified King as defendant only after defendant sent a photograph of his face. Moreover, while Candy was the one who sent the initial friend request, defendant initiated their conversation. Throughout their exchanges, defendant spoke openly about possessing, using, and selling large amounts of drugs. Within hours of their introduction, he sent Candy a photograph depicting a large quantity of methamphetamine. These circumstances indicate that defendant was willing to discuss and pursue a drug transaction without significant prompting by police. Thus, the record does not support defendant's contention that police targeted him in a manner that manufactured criminal intent.

Although officers employed "deceptive methods to obtain evidence of [defendant's] crime," they clearly did not manufacture defendant's criminal behavior. *Vansickle*, 303 Mich App at 117. Defendant was a willing participant, and officers merely provided him with the opportunity to commit the offense. *Johnson*, 466 Mich at 498. Accordingly, because the record does not support an entrapment defense and "[f]ailing to advance a meritless argument . . . does not constitute ineffective assistance of counsel," *Ericksen*, 288 Mich App at 201, the trial court did not err by denying defendant's motion for a new trial.[1]

[1] Defendant also argues that he is entitled to resentencing because his within-guidelines sentence is disproportionate. We review sentencing decisions for an abuse of discretion. *People v Boykin*, 510 Mich 171, 182; 987 NW2d 58 (2022). Within-guidelines sentences are presumptively proportionate. *People v Brcic*, ___ Mich App ___, ___; ___ NW3d ___ (2026) (Docket Nos. 362727 and 366320); slip op at 10. "A defendant may overcome the presumptive proportionality of a within-guidelines sentence by presenting unusual circumstances that would render the presumptively proportionate sentence disproportionate." *Id*. (quotation marks, citation, and brackets omitted).

Defendant contends that his sentence is "grossly" disproportionate because no member of the community was injured, he did not possess a weapon at the time of his arrest, and he would not have traveled to in Michigan to commit the offense but-for police entrapping him. Defendant appears to conflate two distinct arguments that his sentence is disproportionate under the framework discussed in *Steanhouse* and is so grossly disproportionate that it violates the Michigan Constitution's protection against cruel and unusual punishment. See Const 1963 art 1 § 16. Regardless of what standard applies, defendant is not entitled to relief. As discussed, defendant was not entrapped, thus, this argument has no merit. Moreover, defendant offers no explanation as to why the absence of any injury or weapon—especially for a drug crime that does not require the presence of any injury or weapon in order to be found guilty, see MCL 333.7401(2)(b)(*i*)—constitutes unusual circumstances that would render his presumptively proportionate sentence disproportionate. Defendant, therefore, has abandoned this argument. See *People v McPherson*, 263 Mich App 124, 136; 687 NW2d 370 (2004) ("The failure to brief the merits of an allegation of error constitutes an abandonment of the issue.").

Affirmed.

/s/ Colleen A. O'Brien
/s/ Thomas C. Cameron
/s/ Allie Greenleaf Maldonado