STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM CHARLES CRON,

Defendant-Appellant.

UNPUBLISHED
February 10, 2004

No. 242160
Antrim Circuit Court
LC No. 01-003518-FC

Before: Murray, P.J., and Murphy and Markey, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316(1)(a), first-degree felony murder, MCL 750.316(1)(b), kidnapping, MCL 750.349, and unlawfully driving away an automobile (UDAA), MCL 750.413. He was sentenced as a fourth habitual offender, MCL 769.12, to concurrent terms of life imprisonment for first-degree premeditated murder and sixty to ninety years each for kidnapping and UDAA. The trial court "conditionally vacated" the felony murder conviction, the condition being that the premeditated murder conviction be upheld on appeal, in hopes of preserving the conviction and sentence for kidnapping, the underlying felony upon which the felony murder conviction was predicated. We vacate defendant's conviction and sentence for kidnapping and remand for entry of an amended judgment of sentence reflecting both that action and that defendant was convicted of a single count of first-degree murder supported by the theories of both premeditation and felony murder. We affirm in all other respects.

The victim's body was found in her car, partially submerged in the Torch River, on September 5, 2001. The prosecutor's theory of the case was that defendant, unhappy with the victim over their failed romance, and her refusal to pay for cocaine he had recently "fronted" her, stalked the victim, kidnapped her in her car, forced her to write letters exonerating defendant in the instant crime and others for which he was under investigation, and then drowned her under circumstances he hoped would suggest either suicide or accident.

I. Audiotape

Defendant first argues that the trial court erred in asking that part of an audiotape of a witness' interview with the police be played for the jury. We disagree. A trial court's

evidentiary decisions are reviewed for an abuse of discretion. See *People v Gonzalez*, 256 Mich App 212, 217; 663 NW2d 499 (2003).

This issue concerns testimony from defendant's father, Charles Cron, where he equivocated about what defendant had told him about his last moments with the victim. Asked if defendant ever said anything to indicate how the victim ended up in the water, the witness replied, "I'm not totally sure if I was talking to Victor [defendant's brother] or [defendant] about . . . how she got in the water." The witness recalled talking to the police, who had a tape recorder. Asked if the police had posed a similar question, the witness answered that he did not remember what was said. After reviewing his written statement, the witness stated that defendant had said "[t]hat they had been doing cocaine and the car ended up in the water," and that defendant was able to get out of the car, but that he could not find the victim or the car.

Asked on cross-examination if defendant had indicated that he had been with the victim "on the 4th," the witness replied, "I'm pretty sure [defendant] did. It might have been Victor . . . ." Asked if defendant had stated that he had been in the car with the victim, the witness similarly answered, "I thought it was [defendant], I'm not 100 percent sure if [defendant] told me he was in the car or if Victor told me he was in the car with her."

On redirect examination, the prosecutor referred to the transcript of the interview with the police, and asked if it was defendant or Victor who provided the information, but the witness continued to equivocate. The latter went on to accuse the police of physically assaulting him at the time and stated that after being advised of his *Miranda*[1] rights he spoke to the police under some duress. The witness further protested that some things that were said did not appear in the written statement. Asked about when he told the police about having asked defendant why he did not get the victim out of her car, the witness replied, "I'm not even sure if I said that to or [defendant] told me that, or if it was in the conversation with Victor." The prosecutor continued to seek clarification by reference to the written statement, but the witness continued to say that he was not certain if he had received incriminating information from defendant or Victor.

Defense counsel objected that the witness should testify from memory, not from his prior statement. The trial court's response included the following:

> I'm about at the point I'm going to require that tape be played to the jury then there won't be any questions about tone of voice and how it was handled and how the questions were asked, and whether the witness was being badgered or not. I think after lunch we'll begin by playing the statement on the tape in its entirety to the jury unless somebody can give me a good reason why we shouldn't.

After taking arguments, the trial court ruled that "the interest of justice does require that at least the first three pages of this statement as actually provided be played and they are going to be played for the purpose of allowing the jury to . . . assess how and when the statement was

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

made." Charles Cron's taped-recorded prior statement was played and redirect examination resumed. Defendant's father continued to express some doubt whether he had obtained his understanding of events from defendant or others.

On appeal, defendant complains that the trial court's actions in this regard caused the jury both to view the court as acting as prosecutor and to use the evidence in question substantively instead of purely as a means of assessing the witness' credibility. Regarding the latter, the trial court instructed the jury at the close of proofs:

> There has been some evidence that some witnesses made an earlier statement that did not agree with their statement during the trial, for example, Charles Cron made an oral recorded, but unsworn, statement prior to this trial. You must be very careful how you consider this evidence. The statement was not made during this trial so you must not consider it when you decide whether the elements of the crime have been proven. On the other hand, you may use it to help you decide whether you think the witness is truthful. . . . [R]emember you may only use it to help you decide whether you believe the witnesses testimony here in court.

"It is well established that jurors are presumed to follow their instructions." *People v Graves*, 458 Mich 476, 487; 581 NW2d 229 (1998). The trial court's specific, detailed instruction not to use the witness' earlier statement as substantive evidence avoided any potential confusion.

Our review of the record for the appearance of bias finds none. A judge has the discretion to intervene in the presentation of evidence for the purpose of clarifying testimony or eliciting additional relevant information. *People v Weathersby*, 204 Mich App 98, 109; 514 NW2d 493 (1994). In doing so here, the trial court's questions and actions were neutral. Neither the court, nor the jury, could guess whether playing the tape would ultimately help or hurt defendant, and in the end it did not give either side any obvious advantage. Thus, defendant has not established that the trial court assumed the role of prosecutor, or otherwise displayed any bias. Further, the trial court instructed the jury:

> My comments, rulings, questions, and instructions are also not evidence. . . . I am not trying to influence your vote or express a personal opinion about how the case is to be decided. If you believe that I have an opinion about how you should decide this case, you must pay no attention to that opinion. You are the only judges of the facts and you should decide the case from the evidence.

For these reasons, we reject this claim of error.

II. Hearsay

Defendant argues that several instances of damaging and improper hearsay testimony denied him a fair trial. We disagree.

Hearsay, meaning testimony as to another person's unsworn, out-of-court assertions offered to prove the truth of the matters asserted, is presumptively inadmissible, subject to several exceptions provided by the rules of evidence. MRE 801-805.

Defendant makes issue of testimony from three witnesses, Jessica Corner, Ira Henke, and Brenda Steadfest. The challenged testimony concerned the victim's cocaine transactions with defendant and defendant stalking or otherwise threatening or intimidating her. Defendant argues that to the extent that these witnesses learned such information through the statements of the victim, their testimony was inadmissible hearsay.

But, the victim's statements concerning trafficking in cocaine were against her penal interest and thus admissible under MRE 804(b)(3). Defendant asserts in his brief that the victim's "statement that she obtained drugs *from Defendant* that night was in no way contrary to her interest, and therefore does not come within the exception" (defendant's emphasis). Our Supreme Court instructs that where a "declarant's inculpation of an [another] is made in the context of a narrative of events, at the declarant's initiative without any prompting or inquiry, that as a whole is clearly against the declarant's penal interest and as such is reliable, the whole statement--including portions that inculpate another--is admissible as substantive evidence at trial pursuant to MRE 804(b)(3)." *People v Poole*, 444 Mich 151, 161; 506 NW2d 505 (1993). This Court is bound by our Supreme Court's interpretation of the Michigan Rules of Evidence. *People v Beasley*, 239 Mich App 548, 556; 609 NW2d 581 (2000). The victim's statements about being "fronted" cocaine by defendant were against the victim's penal interest; therefore they fell under that exception. MRE 804(b)(3); *Poole, supra*.

To the extent the other challenged evidence was hearsay, the prosecutor correctly argues it was admissible under MRE 803(3). That exception provides "[a] statement of the declarant's then existing state of mind, emotion, sensation, or physical condition (such as intent, plan, motive, design, mental feeling, pain, and bodily health), but not including a statement of memory or belief to prove the fact remembered or believed . . ." is not excluded by the hearsay rule. Our Supreme Court has made clear that evidence that "demonstrates an individual's state of mind will not be precluded by the hearsay rule," and that statements of murder victims as to plans or feelings are admissible where relevant to material issues, including motive. *People v Fisher*, 449 Mich 441, 449-450; 537 NW2d 577 (1995). See also, *People v Coy*, 258 Mich App 1, 13-16; 669 NW2d 831 (2003), and *People v Ortiz*, 249 Mich App 297, 307-310; 642 NW2d 417 (2001). Here, the challenged evidence was relevant to the material issues of discord in the relationship between defendant and his fiancé, the victim, and her future plans.

In addition, much of the challenged evidence simply was not hearsay. For example, Henke testified concerning defendant breaking into his trailer on the morning of September 3, and mentioned his concern that defendant had been stalking the victim for weeks. Henke further opined that defendant "still wanted to have control over her." None of this testimony included a statement of the victim offered to prove the truth of the matter asserted. Further, Henke testified about being present when the victim received calls from defendant where the latter insisted that she leave Henke's trailer, or that he would to come after her there, itself establishes a non-hearsay basis for forming the impression that defendant had been engaging in a pattern of intimidation and harassment against the victim. The victim's verbal reactions to harassing calls and her statements describing that event as it happened were admissible as excited utterances, MRE 803(2), or present-sense impressions, MRE 803(1).

In short, in order for us to accept defendant's argument challenging Henke's testimony about stalking means we must assume that the information originated only in statements from the

victim. But we would have to consider how those statements might have been admissible nonetheless. Because defendant points to no statement of the victim in this regard, let alone an assertion offered to prove the truth of the matter asserted. So, rather than concern ourselves with such hypotheticals, we reject this argument on its face.

We note some concern with the testimony concerning defendant's having a set of keys to the victim's car. Steadfest testified on direct examination that the victim told her that among her concerns at the prospect of defendant stalking her was that defendant "had a set of her keys to her car and she . . . didn't know what he was capable of doing with her car . . . ." Later, on cross-examination, when asked about the victim's having declined Steadfest's offer of a ride home, Steadfest volunteered, "Yeah, because she said that [defendant] had her keys to her car."

The prosecutor argues that the victim's statements concerning defendant's having keys to her car reflected the declarant's then existing mental or emotional condition. Although her statements that she was fearful were properly admitted for that reason, her assertion that defendant had keys to her car cannot itself be considered "[a] statement of the declarant's then existing state of mind, emotion, sensation, or physical condition . . . ." MRE 803(3). Indeed, the rule specifically disallows "a statement of memory or belief to prove the fact remembered or believed . . . ."[2] *Id.* A timely hearsay objection, then, should have precluded this testimony concerning defendant's having the victim's car keys.

Hearsay, however, was not the only evidence of defendant's possession of keys to the victim's car. Steadfest testified earlier that coming "to get her car keys" was among the reasons defendant visited the salon where Steadfest and the victim worked. The context of this testimony carries no implication that Steadfest heard this from the victim. Further, defendant's brother testified that while driving defendant to another brother's house on the morning of September 5, at defendant's insistence he threw a Honda key out of the window, and confirmed that the victim owned a Honda. Competent testimony that is duplicative of improperly admitted testimony militates against the conclusion that a party was harmed by the error. See, e.g., *People v McRunels*, 237 Mich App 168, 185; 603 NW2d 95 (1999). The cumulative, unchallenged evidence that defendant had keys to the victim's car renders the brief hearsay harmless.

For these reasons, we reject this claim of error.

III. Evidence of Drug Dealing

Defendant argues that he was denied a fair trial by the presentation of evidence that he and the victim had repeatedly engaged in drug-related activities. We disagree.

The prosecutor filed notice of intent to introduce evidence of uncharged bad acts before trial, as required by MRE 404(b)(2). As defendant points out, defense counsel did not object to the introduction of such evidence, and counsel also elicited testimony describing the drug transactions between defendant and the victim. A party may not claim error when it contributes

[2] But for an exception, not applicable here, concerning the declarant's will. MRE 803(3).

to the alleged error by plan or negligence, *People v Griffin*, 235 Mich App 27, 46; 597 NW2d 176 (1999), and waives alleged error by making affirmative use of otherwise inadmissible evidence, *People v Riley*, 465 Mich 442, 448-449; 636 NW2d 514 (2001).

Moreover, a jury is entitled to hear the "complete story" of the matter in issue. *People v Sholl*, 453 Mich 730, 742; 556 NW2d 851 (1996), quoting *People v Delgado*, 404 Mich 76, 83; 273 NW2d 395 (1978). "'Evidence of other criminal acts is admissible when so blended or connected with the crime of which defendant is accused that proof of one incidentally involves the other or explains the circumstances of the crime.'" *Scholl, supra* at 742, quoting with approval *State v Villavicencio*, 95 Ariz 199, 201; 388 P2d 245 (1964).

For these reasons, we reject this claim of error.

IV. Prosecutorial Misconduct

Defendant asserts that the prosecutor improperly commented on defendant's decision not to testify at trial. But, as defendant admits, he did not object. Our review of unpreserved claims of prosecutorial misconduct is limited to ascertaining whether the prosecutor engaged in misconduct so egregious that no curative instruction could have counteracted the prejudice to defendant, or whether manifest injustice otherwise resulted from the conduct in question. *People v Launsburry*, 217 Mich App 358, 361; 551 NW2d 460 (1996). An unpreserved claim of error warrants reversal only when the defendant is actually innocent, or if the error seriously affected the fairness, integrity, or public reputation of the proceedings. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

Defense counsel's closing argument included the following remarks:

> Well, it's not [defendant's] job in a trial to explain, it's the prosecutor's job, they have the burden of proving each and every element. You cannot hold it against an individual because they do not take the stand to explain, they don't have to explain and you can't force them to explain. If things are left unsaid of [or] things aren't clear, what does that mean, that means there is reasonable doubt. And if there is reasonable doubt you cannot convict.

The prosecutor began his rebuttal with the following remarks, which form the basis for this issue:

> [Defense counsel] tells you that if our theories don't work you must acquit, that's what he's telling you.
>
> There are two people in the world who know what happened, [the victim] is not here to tell you her story. [The victim] can't tell you what happened. [The victim] can't tell you how [defendant] got into her car. [The victim] can't tell you how she got to Torch River. [The victim] can't tell you how her car got in the water.

Defendant argues that by emphasizing that the victim was not available to tell what happened, the prosecutor necessarily emphasized also that defendant had chosen not to tell his

side of the story. "A prosecutor may not comment upon a defendant's failure to testify." *People v Davis*, 199 Mich App 502, 517; 503 NW2d 457 (1993). Although commentary to the effect that the prosecution's evidence went unrebutted can act as a reminder that the defendant chose not to rebut the prosecutor's case, such comments should be reviewed in context to determine whether they were "manifestly intended to be . . . of such a character that the jury necessarily took them to be a comment on the failure of defendant to testify." *People v Guenther*, 188 Mich App 174, 179; 469 NW2d 59 (1991).

In this case, only by indirect implication did the prosecutor encourage the jury to recall that defendant chose not to testify in his own defense; even more remote is any implication that this silence should in fact be used against defendant. Further, defense counsel himself chose to remind the jury that defendant did not testify. The prosecutor's comments must be viewed in context. *People v Jones*, 468 Mich 345, 353; 662 NW2d 376 (2003). "Under the doctrine of invited response, the proportionality of the response, as well as the invitation, must be considered to determine whether the error, which might otherwise require reversal, is shielded from appellate relief." *Id*., citing *United States v Young*, 470 US 1, 12-13; 105 S Ct 1038; 84 L Ed 2d 1 (1985). Defendant was not denied a fair trial here in light of the prosecutor's indirect response, and in light the trial court's instruction to the jury to decide the case solely on the evidence, that the statements of counsel were not evidence, and that defendant's silence in court could not be used against him. *People v Bahoda*, 448 Mich 261, 281; 531 NW2d 659 (1995); *People v Watson*, 245 Mich App 572, 594; 629 NW2d 411 (2001).

For these reasons, this claim of prosecutorial misconduct must fail.

V. Instructions on Causation

Defendant argues that the trial court's instructions on the causation element for murder erroneously directed a verdict on that element, or at least established a presumption in this regard that defendant was then forced to rebut. We disagree. Whether a trial court correctly instructed a jury concerning an element of a crime presents a question of law, calling for review de novo. See *People v Perez*, 469 Mich 415, 418; 670 NW2d 655 (2003). But unpreserved issues are reviewed for plain error affecting substantial rights. *Carines, supra; People v Snider*, 239 Mich App 393, 420; 608 NW2d 502 (2000).

The trial court instructed the jury on the causation element of murder as follows:

> First, that the defendant caused the death of [the victim]. That is, that [the victim] died as a result of asphyxia by drowning.

This instruction, if taken literally, suggests that if the victim died of drowning then defendant must have caused the death. Obviously, that the victim was killed by certain means does not prove that defendant used those means to commit the crime. And, we reject this interpretation because instructions must be viewed in their *entirety* to determine if there is error requiring reversal. *People v Daniel*, 207 Mich App 47, 53; 523 NW2d 830 (1994).

In elaborating on its instructions for premeditated murder, the court included the following:

> Fourth, that the killing was deliberate, which means that the defendant considered the pros and cons of the killing and thought about and chose his actions before he did it.
>
> * * *
>
> Lying in wait means that the defendant hid himself, planning to take another person by surprise while lying in wait. The defendant must have intended to kill [the victim].

In elaborating on its instructions for felony murder, the court included the following:

> Second, that the defendant . . . intended to kill, or he intended to do great bodily harm to [the victim] or he knowingly created a very high risk of death or great bodily harm knowing that death or such harm would be the likely result of his actions.
>
> Third, that when he did the act that caused the death of [the victim] the defendant was committing or attempting to commit the crime of kidnapping.

The court reiterated the latter instruction when instructing the jury on second-degree murder.

Viewing the instructions in their entirety reveals that the trial court did not equate death by drowning with death at defendant's hands. Imperfect instructions do not require reversal if they fairly presented the issues to be tried and adequately protected the rights of the accused. *Daniel*, *supra* at 53. Because reasonable jurors could not have understood that defendant was presumed to have caused the victim's death solely if the victim died of drowning, there was neither plain error nor any likely effect on defendant's substantial rights. *Snider, supra* at 420.

VI. Assistance of Counsel

Defendant grafts onto several of his issues on appeal the argument that he was convicted without the benefit of the effective assistance of counsel. Again, we disagree.

Because defendant did not move for a new trial or a *Ginther*[3] hearing below, this Court's review of his ineffective assistance of counsel claim is limited to mistakes apparent on the record. *People v Hurst*, 205 Mich App 634, 641; 517 NW2d 858 (1994).

The federal and state constitutions guarantee a criminal defendant the right to the assistance of counsel. US Const, Ams VI and XIV; Const 1963, art 1, § 20. The constitutional right to counsel is a right to the *effective* assistance of counsel. *United States v Cronic*, 466 US 648, 654; 104 S Ct 2039; 80 L Ed 2d 657 (1984); *People v Pubrat*, 451 Mich 589, 594; 548 NW2d 595 (1996). To establish ineffective assistance of counsel, defendant must show that counsel's performance fell below an objective standard of reasonableness under prevailing

[3] *People v Ginther*, 390 Mich 436, 443; 212 NW2d 922 (1973).

professional norms. Defendant must further show that there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different, and that the attendant proceedings were fundamentally unfair or unreliable. *People v Rodgers*, 248 Mich App 702, 714; 645 NW2d 294 (2001).

Defendant makes issue of defense counsel's failure to object to the testimony that defendant characterizes as inadmissible hearsay. We concluded in our analysis of the substance underlying this argument in part II, *supra*, that defendant brought no inadmissible hearsay to light except in relation to evidence that defendant had a set of keys to the victim's car. Because that evidence was not crucial to the prosecutor's case and because other unchallenged evidence tended to prove the same point, its admission neither affected the outcome nor rendered the proceedings fundamentally unfair or unreliable. *Rodgers, supra* at 714.

Defendant also makes issue of defense counsel's failure to object to evidence that defendant apparently encouraged the victim's drug use and acted as her supplier. But, because the drug-related interactions between defendant and the victim were part of the "complete story" to which the jurors were entitled, *Sholl, supra* at 742, we cannot find that defense counsel would have succeeded had he tried strenuously to keep this information from them. "Counsel is not obligated to make futile objections." *People v Meadows*, 175 Mich App 355, 362; 437 NW2d 405 (1989). Further, strategic reasons for not resisting such evidence are apparent. Defense counsel suggested the possibility that the victim's death may have resulted from her own drug use, and so likely saw a possible advantage in emphasizing her history of substance abuse. Because defense counsel's decision to exploit, rather than resist, evidence of the victim's drug use was sound trial strategy, that tactic cannot support a claim of ineffective assistance. *People v LaVearn*, 448 Mich 207, 216; 528 NW2d 721 (1995). This Court will not substitute its judgment for that of counsel regarding matters of trial strategy, nor will it assess counsel's competence with the benefit of hindsight. *Id.*; *Rodgers, supra* at 715.

Defendant also points to counsel's failure to object to the prosecutorial remarks that defendant characterizes as improperly making capital of defendant's decision not to testify. Because we have concluded that the claim has no merit, it follows that defendant was not denied the effective assistance counsel for failure to object to the matter. *Meadows, supra* at 362.

Finally, defendant points to defense counsel's failure to object to the trial court's causation instruction discussed in part V, *supra*. Because we concluded that the jury instructions considered as a whole sufficiently explained that element for murder, we conclude here that defense counsel's failure to object neither affected the outcome nor compromised the integrity of the proceedings. *Rodgers, supra* at 714.

For these reasons, defendant's claim of ineffective assistance must fail.

VII. Double Jeopardy

Defendant argues that his conviction of, and sentence for, kidnapping must be vacated because the jury found him guilty of first-degree felony murder predicated on kidnapping. Plaintiff concedes error in this regard. We agree.

First-degree premeditated murder was presented to the jury as "Count 1," and first-degree felony murder, predicated on kidnapping, was presented as "Count 1A," thus indicating that the two theories existed in connection with a single count.

Multiple murder convictions for the death of single victim violate the prohibition against multiple punishments for the same offense found in the Double Jeopardy Clause.[4] *People v Clark*, 243 Mich App 424, 429; 622 NW2d 344 (2000); *People v Bigelow*, 229 Mich App 218, 220; 581 NW2d 744 (1998). To remedy this double jeopardy violation when a murder conviction rests on multiple theories the judgment of sentence should reflect a single conviction and sentence for first-degree murder, supported by the two separate theories. *Id.* at 220-221.

Another double jeopardy problem arises in connection with felony murder convictions where the defendant is also convicted of the predicate felony. *People v Harding*, 443 Mich 693, 714 (Brickley, J.), 735 (Cavanagh, C.J.); 506 NW2d 482 (1993); *People v Wilder*, 411 Mich 328, 347; 308 NW2d 112 (1981). Where a defendant is convicted of both felony murder and the predicate felony, the remedy on appeal is to reverse and vacate the conviction of the predicate felony. *People v Minor*, 213 Mich App 682, 690; 541 NW2d 576 (1995).

In *People v Coomer*, 245 Mich App 206, 207-208; 627 NW2d 612 (2001), the defendant for a single homicide was separately convicted and sentenced for premeditated murder, felony murder predicated on kidnapping death, and kidnapping. This Court vacated the conviction and sentence for kidnapping, and remanded the case for entry of an amended judgment of sentence reflecting a and sentence for a single conviction of first-degree murder, supported by theories of both premeditation and felony murder. *Id.* at 224-225.

In this case, at sentencing, the prosecutor acknowledged *Bigelow* and *Coomer*, but proposed that the conviction of felony murder be vacated, on condition that the conviction of premeditated murder remained after the appellate process. The trial court heeded the prosecutor's advice.

Coomer is distinguishable from the instant case only in that the defendant was convicted and sentenced for all three crimes here at issue. But *Bigelow* sets forth the proper way to sentence a single murder conviction based on multiple theories, and *Harding* sets forth the proper way to sentence when a defendant is convicted of both felony murder and the underlying felony. This Court must apply these rules here. Accordingly, we vacate defendant's conviction of, and sentence for, kidnapping, and direct the trial court to amend the judgment of sentence to reflect a single conviction of, and sentence for, first-degree murder supported by theories of premeditation and felony murder. *Coomer*, *supra* at 224-225.

We affirm in part, vacate in part, and remand for correction of the judgment of sentence. We do not retain jurisdiction.

[4] US Const, Ams V and XIV; Const 1963, art 1, § 15.

/s/ Christopher M. Murray
/s/ William B. Murphy
/s/ Jane E. Markey