STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED December 18, 2007
v	No. 269716 Kalamazoo Circuit Court
JAMES HOWARD BELL, Defendant-Appellant.	LC No. 05-001534-FC

Before: Whitbeck, C.J., and Talbot and Fort Hood, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of second-degree murder, MCL 750.317. He was sentenced as a fourth habitual offender, MCL 769.12, to sixty to ninety-three years' imprisonment. Defendant appeals as of right, and we affirm.

I. Facts

On July 19, 2005, Charles Stewart, a former drug user, went to the home of the victim, Theodore Pettengill, and found the victim lying face down in a pool of blood on the floor of his bedroom. Stewart, a parolee who had not followed the conditions of his parole, fled the home, but later called police. He was unable to provide the exact address of the home. Police picked Stewart up from his girlfriend's home and brought him to the area, where he was able to identify the victim's home. Stewart provided samples and his clothing to police, but he was eliminated as a suspect in the victim's murder.

Defendant met the victim a couple of days before the murder. The victim apparently bragged to his friends and associates that he had recently received an inheritance and would buy drugs for his own personal use as well as for others. Defendant encountered the victim at the home of a mutual friend, and defendant helped the victim obtain drugs on credit during the weekend when the victim did not have access to any money.

Brian Burton denied selling drugs to defendant and the victim. However, on July 18, 2005, a Monday morning, he gave the men a ride to the bank. After driving to the bank, Burton dropped the victim off at his home. Burton was on his way back across town when defendant asked to be dropped back off at the victim's home. After midnight that evening, defendant called Burton and asked to be picked up from the victim's home because the victim was "tripping." Burton agreed to pick defendant up, but changed his mind and did not answer his telephone. The

next morning, Burton spoke to defendant. Defendant warned Burton not to return to the victim's home. Defendant told Burton that the victim turned off the lights. When defendant found the lights and turned them on, the victim attacked him with a hammer. Defendant said that he hit the victim in the head with a hammer. Burton refused to have any further contact with defendant after this telephone call, testifying that he did not want to get involved.

Defendant was residing with Kishon Norwood. On the day the victim's body was discovered, defendant was cooking at Norwood's home when he took off his shirt and began to soak it in the sink even though Norwood had a washer and a dryer. Defendant told Norwood that the victim came at him with a hammer or a bat, and defendant managed to get the weapon and hit the victim. Defendant said that he may have hurt the victim "real bad" and that he had to leave the state because there was no self-defense law in Michigan.

Police obtained deoxyribonucleic acid (DNA) samples from the victim's home. On the murder weapon, a claw hammer, DNA samples from a major and minor donor were present. The major donor of DNA was blood from the victim. However, defendant was included within the classification of individuals who could have left the minor DNA sample on the handle of the hammer. Defendant was convicted of second-degree murder.

II. Admission of Autopsy Photograph

Defendant first alleges that the trial court abused its discretion by admitting a photograph of the victim taken during the autopsy. We disagree. The decision to admit evidence is reviewed for an abuse of discretion. *People v Washington*, 468 Mich 667, 670; 664 NW2d 203 (2003). If the admission of evidence involves a preliminary question of law, the issue is reviewed de novo. *Id*. at 670-671. An abuse of discretion is found only if an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification for the ruling. *People v Ullah*, 216 Mich App 669, 673; 550 NW2d 568 (1996). Recent case law concludes that at the core of the abuse of discretion standard is the acknowledgment that there will be circumstances in which there will be no single correct outcome, but rather there can be more than one reasonable and principled outcome. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003). "When the trial court selects one of these principled outcomes, the trial court has not abused its discretion, and, thus, it is proper for the reviewing court to defer to the trial court's judgment. An abuse of discretion occurs, however, when the trial court chooses an outcome falling outside this principled range of outcomes." *Id*. A decision on a close evidentiary question ordinarily cannot be an abuse of discretion. *People v Sabin (After Remand)*, 463 Mich 43, 67; 614 NW2d 888 (2000).

Photographs will not be excluded simply because a witness can testify regarding the information contained in the photographs, and gruesomeness alone will not cause exclusion. *People v Mills*, 450 Mich 61, 76; 537 NW2d 909 (1995). Photographs that illustrate the nature and extent of the victim's injuries are essential to establish intent. *Id*. at 71. All three forms of murder, felony murder, first-degree murder, and second-degree murder, require proof of intent. *People v Herndon*, 246 Mich App 371, 386; 633 NW2d 376 (2001). The probative value of a photograph is not outweighed by the danger of unfair prejudice where the photograph is admitted to prove intent and to corroborate the manner of death testimony from the pathologist. *Id*. at 414. When a trial judge individually examines the photographs and considers the impact on the jury's

determination, an abuse of discretion does not occur merely because the photographs depict a brutal murder. *Id*.

In the present case, the prosecutor and defense counsel stipulated to the admission of certain photographs. However, when the prosecutor questioned the medical examiner, Dr. Brian Hunter, he expressed the desire to display to the jury an additional photograph of the victim with the scalp pulled back. Dr. Hunter testified that he was unable to describe for the jury the amount of force that was utilized in administering the blows to the skull of the victim. However, he opined that a photograph would provide the jury with a "qualitative feel" for the injury. The trial court reviewed five to seven photographs before allowing one photograph to be submitted to the jury, ruling that the probative value outweighed any potential prejudice.

Under the circumstances of this case, we cannot conclude that the trial court's decision was an abuse of discretion. *Mills, supra*; *Herndon, supra*. The trial judge reviewed multiple photographs and limited admission to one photograph. Additionally, defendant's intent was at issue in the case. Defendant was initially charged with open murder. However, the prosecutor later clarified that he was pursuing a theory of either first-degree murder or felony-murder. The jury was also given the option of convicting defendant of second-degree murder. In light of the theories presented at trial and the key issue of intent, we cannot conclude that an abuse of discretion occurred by admitting the photograph taken during the autopsy. *Mills, supra*.

III. Rebuttal Testimony

Next, defendant alleges that the trial court erred in allowing the prosecutor to call a rebuttal witness. We disagree. "Admission of rebuttal evidence rests within the sound discretion of the trial court and will not be disturbed absent a clear abuse of that discretion." *People v Figgures*, 451 Mich 390, 398; 547 NW2d 673 (1996). The issue of rebuttal testimony is left to the trial court's discretionary authority because it is in the best position to limit the scope of rebuttal to prevent the parties from litigating secondary issues. *Id*.

The test to determine whether rebuttal testimony was properly admitted is whether the evidence was properly responsive to evidence introduced or a theory developed by the defendant. *Figgures, supra* at 399. Whether rebuttal evidence is proper depends on what proofs were introduced by the defendant, not merely what the defendant testified to during cross-examination. *Id*. In *People v Leo*, 188 Mich App 417, 422; 470 NW2d 432 (1991), this Court stated:

> Rebuttal testimony may be used to contradict, repel, explain, or disprove evidence presented by the other party in an attempt to weaken and impeach it. The test for error regarding rebuttal evidence is whether it is justified by the evidence it is offered to rebut. A prosecutor cannot elicit a denial during the cross-examination of a defense witness and use such denial to inject a new issue into the case. Cross-examination cannot be used to revive a right to introduce evidence that could have been, but was not, introduced in the prosecutor's case in chief. [Citations omitted.]

In the present case, Martell Coleman testified that he went with his relative to the victim's home at approximately 4:00 a.m. at defendant's request. Once they arrived, defendant entered the vehicle, was in a hurry to leave the residence, and wiped sweat from his face.

The testimony of Martell Coleman was introduced to contradict defendant's testimony that he left the victim's residence the night before to catch the 9:00 p.m. bus. This evidence was proper rebuttal evidence because it was offered to dispute the version of events proffered by defendant and did not introduce collateral evidence. *Figgures, supra*.

Defendant contends that the testimony was improper because the witness was named on the prosecutor's original witness list, but deleted from the final witness list. However, defendant failed to cite any authority in support of the assertion that rebuttal witnesses must be delineated on the prosecutor's final witness list. We cannot effectively review an issue that is inadequately presented and argued. *People v Raub*, 9 Mich App 114, 122; 155 NW2d 878 (1967). For the appellate well to flow, the appellant must adequately prime the pump. *Id*. Under the circumstances, this claim of error does not provide defendant any relief.[1]

Defendant also alleges that the rebuttal testimony exceeded the scope for which it was introduced and such error warrants a new trial. Because defendant did not object to the scope of rebuttal in the trial court, this issue is reviewed for plain error affecting substantial rights. MRE 103(a)(1); *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2002). To establish plain error, defendant must demonstrate: (1) that an error occurred; (2) the error was plain (clear or obvious); and (3) that the error affected substantial rights. *People v Jones*, 468 Mich 345, 355; 662 NW2d 376 (2003). Defendant must show prejudice, that the error affected the outcome of the proceedings, to establish plain error affecting his substantial rights. *Id*. at 356.

As stated, the prosecutor principally introduced Martell Coleman's testimony to show that he picked up defendant from the victim's house at 4:00 a.m. Although he also testified regarding defendant's demeanor and appearance when he picked him up, we conclude that the admission of this testimony does not constitute plain error affecting defendant's substantial rights.

The jury was presented with circumstantial evidence of guilt, DNA evidence, and defendant's admissions to other witnesses. The credibility of the witnesses' statements presented an issue for the trier of fact. On the contrary, defendant testified that he did not kill the victim. The jury was presented with diametrically opposed versions of events, the circumstantial case presented by the prosecutor, and the defendant's denial of his participation, and, nevertheless,

[1] We note that MCL 767.40a provides that the prosecutor shall file with the information a list of all witnesses "known to the prosecuting attorney who might be called at trial" and all res gestae witnesses known to the prosecutor and investigating officers. However, rebuttal evidence is contingent upon the evidence presented by the defendant. Therefore, the prosecutor is unaware of the need for rebuttal evidence until the defense presents evidence at trial. Therefore, MCL 767.40a does not govern rebuttal witnesses. Additionally, MCL 768.20, the statute governing notice of an alibi and witnesses to rebut the alibi, was not implicated because defendant did not raise an alibi defense.

convicted defendant of second-degree murder. The rebuttal evidence merely corroborated evidence presented by the prosecutor and countered the departure time from the victim's home provided by defendant. Thus, this issue does not entitle defendant to any relief.

IV. Judgment of Sentence

Defendant also asserts that correction of his judgment of sentence is required because the trial court improperly added additional requirements to his judgment of sentence. We disagree. Defendant contends that the sentence documented in the judgment of sentence differed from the oral pronouncement and therefore is an invalid sentence.[2] To the extent that defendant alleges his sentence is invalid, this presents a question of law that is subject to de novo review. *People v Drohan*, 475 Mich 140, 146; 715 NW2d 778 (2006).

A trial court has the authority to resentence a defendant when the previously imposed sentence is invalid. *People v Whalen*, 412 Mich 166, 169; 312 NW2d 638 (1981). A sentence within statutory limits may be invalid if: (1) the sentencing court relies on constitutionally impermissible considerations, such as the defendant's constitutionally infirm prior convictions; (2) the sentencing court improperly assumes a defendant's guilt of a charge which has not yet come to trial; (3) the sentencing court does not exercise its discretion because it is operating under a misconception of the law; or (4) the sentencing court conforms the sentence to a local sentencing policy rather than imposing an individualized sentence. *Id*. at 169-170. In order to consider a sentence as "invalid" and justify resentencing, there must be a tangible legal or procedural error leading to the sentence such as a sentence based on a misconception of law. *People v Mutchie*, 251 Mich App 273, 274-275; 650 NW2d 733 (2002), aff'd 468 Mich 50 (2003).

In the present case, defendant asserts that his sentence was invalid because the judgment of sentence imposed the following payment obligations: victim fees $60; state fees $60; court costs $350; and attorney fees $1,307, for a total assessment of $1,777. Specifically, defendant submits that because the second-degree murder statute does not contain any provision for fees and costs, the trial court erred in making payment of such fees a condition of his sentence. Although the second-degree murder statute does not provide for fees and costs, they were appropriately awarded by statute. See MCL 769.1j; MCL 769.1k; MCL 780.905(1)(a). Therefore, defendant cannot argue that the fees and costs have no basis in law.

Furthermore, MCL 769.1k(1)(b)(iii) provides for reimbursement of attorney fees. In *People v Dunbar*, 264 Mich App 240; 690 NW2d 476 (2004), this Court held that a defendant may be required to reimburse the county for the cost of the court appointed attorney, *id*. at 251, but the court must order a fee that bears a relationship to the defendant's foreseeable ability to pay. *Id*. at 254-255. The trial court's pronouncement of the costs without consideration of the ability to pay is insufficient and warrants a remand to the trial court. *Id*. at 255. On remand,

[2] Defendant challenges whether there is statutory authority to award the administrative costs and attorney fees and whether an evidentiary hearing is required. Defendant does not allege that it was erroneous to render such an award when he was not physically present. Therefore, we do not address it.

"[i]f, in its discretion, the trial court determines that reimbursement is appropriate, it should establish the terms pursuant to which repayment is required in a separate order." *Id*. at 256. The sentencing court has the discretion to base its decision to award attorney fees on record evidence only and need not conduct a formal evidentiary hearing. *People v DeJesus*, 477 Mich 996; 725 NW2d 669 (2007).[3]

Review of the lower court record reveals that defendant, acting in propria persona, filed a motion for an evidentiary hearing regarding the ability to pay court costs, fines, and attorney fees on December 18, 2006. In the pleading, defendant asserted that fines, costs, and attorney fees were not discussed at sentencing, and therefore, his ability to pay was not addressed. Defendant requested an evidentiary hearing to address the fees. On December 21, 2006, the trial court denied the request for an evidentiary hearing and ordered defendant to make installment payments toward the fines, costs, and attorney fees. In so holding, the trial court reviewed defendant's certificate of prisoner account activity and noted that there was an average monthly account deposit of $31.08. The trial court held that defendant had the ability to pay his court costs, fines, and attorney fees in installment payments of $10 per month. The trial court reviewed defendant's account and his foreseeable ability to pay in the future. Based on this record, we cannot conclude that the trial court's decision was an abuse of discretion. *DeJesus, supra*; *Dunbar, supra*.

V. Prosecutorial Misconduct

Defendant, acting in propria persona, contends that the prosecutor engaged in misconduct. We disagree. The duty of the prosecutor is to seek justice and not merely convict a defendant. *Jones, supra* at 354. The test of prosecutorial misconduct is whether the defendant was denied a fair and impartial trial. *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001). A claim of prosecutorial misconduct is reviewed on a case by case basis, with the remarks examined in context to assess whether the defendant was denied a fair and impartial trial. *Id*. If a defendant fails to object to a claim of prosecutorial misconduct, the claim is reviewed for outcome determinative plain error. *Id*. Error requiring reversal will not be found where the prejudicial effect of the prosecutor's comments could have been remedied by a timely instruction. *Id*.

Defendant contends that the prosecutor committed misconduct by: (1) superimposing an image of defendant with a hammer with the word "guilty" over a photograph of the victim; (2) failing to disclose statistical evidence by the prosecutor's expert witness; and (3) arguing facts not in evidence. Further, defendant argues that the cumulative effect of these errors deprived him of a fair trial. A prosecutor may not make a statement of fact to the jury that is unsupported by the evidence. *Watson, supra* at 588. However, a prosecutor is entitled to argue the evidence and reasonable inferences arising from the evidence. See *People v Brown*, 267 Mich App 141, 152-153; 703 NW2d 230 (2005). The prosecutor need not present his argument in the blandest

[3] Although this decision was rendered in an order, not an opinion, an order of the Supreme Court is binding precedent when the rationale can be understood. See *People v Edgett*, 220 Mich App 686, 693 n 6; 560 NW2d 360 (1996).

possible terms. *People v Aldrich*, 246 Mich App 101, 112; 631 NW2d 67 (2001). When jurors are advised during instructions that the arguments by counsel are not evidence, it is presumed that the jurors follow this instruction. *People v Graves*, 458 Mich 476, 486; 581 NW2d 229 (1998). Because there was no objection to the alleged instances of prosecutorial misconduct at the trial level, review is for outcome determinative plain error. *Watson, supra*.

After reviewing the lower court record, we conclude that the prosecutor did not engage in misconduct. In the present case, the prosecutor argued that defendant killed the victim because of his inheritance and admitted to others that he hit the victim with a hammer. The prosecutor also provided evidence that the victim was killed with a hammer and presented evidence that defendant's DNA was included within the class of individuals who could have left the minor DNA sample on the murder weapon. The prosecutor's argument to the jury presented in conjunction with the demonstrative aid of the computer graphic was premised on reasonable inferences from the evidence. *Brown, supra*.

Furthermore, there was no violation of the discovery order. There was no requirement that the prosecutor's expert submit his compiled data to the defense in a specific form. In any event, when asked to provide a statistic to the defense, the expert complied. The defense had this statistical information before trial and was able to question the prosecutor's expert. Defendant contends that he was prejudiced by the lack of a statistic because the defense expert was then required to prepare "worst case scenario" data that the prosecutor admitted at trial. We disagree. Review of the testimony of the defense expert, Dr. Scarpetta, reveals that the calculations differed based on the type of calculation performed. Dr. Scarpetta mapped the DNA in question to three locations. However, the state police mapped the DNA to two locations based on a policy of being conservative in their preparation of data. Thus, defendant cannot demonstrate any prejudice when the calculations would have been different based on the methodology employed. *Jones, supra*.

Defendant next asserts that the prosecutor improperly argued facts not in evidence when he asserted that it was defendant's DNA on the hammer. Although it could not be definitively concluded that it was defendant's DNA on the hammer, defendant was within the class of individuals who could have left the DNA sample. There was no eyewitness to the murder. The proofs revealed that defendant knew that the victim had received an inheritance or had money to spend on drugs, defendant admitted to two witnesses that he hit the victim with a hammer, defendant was present in the victim's home, and defendant was included within the class of individuals that could have left the minor donor sample on the hammer. The prosecutor merely tied the evidence together and submitted to the jury that it was defendant's DNA on the hammer because he had the motive and opportunity to commit the crime. The jury was advised that the argument by the prosecutor was not evidence, and jurors are presumed to follow their instructions. *Graves, supra*.

Last, with regard to the claims of prosecutorial misconduct, defendant alleged that the prosecutor denigrated him by referring to him as a liar. The prosecutor is not required to state his argument in bland terms. *Aldrich, supra*. Moreover, defendant testified that he contacted police when he learned that they were looking for him, and they accused him of being a liar. Defendant failed to establish plain error, *Jones, supra*, and there was no cumulative error.

VI. Ineffective Assistance of Counsel

A. Failure to Call Res Gestae Witness

Defendant next asserts that he was deprived of the effective assistance of counsel when a res gestae witness, a bus driver, did not testify at trial and the prosecutor did not assist in locating this witness. We disagree. To establish a claim of ineffective assistance of counsel, defendant bears the burden of establishing that trial counsel's performance fell below an objective standard of reasonableness and that trial counsel's representation was so prejudicial that defendant was denied a fair trial. *People v Hoag*, 460 Mich 1, 5-6; 594 NW2d 57 (1999). To demonstrate prejudice, defendant must establish a reasonable probability that the outcome of the trial would have been different, but for trial counsel's error. *Id*. at 6. A reviewing court does not assess competence with the benefit of hindsight. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999). The defendant must overcome the presumption that the challenged action might be considered sound trial strategy. *People v Tommolino*, 187 Mich App 14, 17; 466 NW2d 315 (1991). The failure to call witnesses only constitutes ineffective assistance of counsel if it deprives a defendant of a substantial defense. *People v Dixon*, 263 Mich App 393, 398; 688 NW2d 308 (2004). A substantial defense is one that might have made a difference in the outcome of the trial. *People v Kelly*, 186 Mich App 524, 526; 465 NW2d 569 (1990).

On the record available, there is no evidence that defendant was deprived of the effective assistance of counsel. On appeal, defendant makes a blanket assertion that the bus driver would have corroborated his testimony that he left the victim's home with the victim alive and took a bus from the victim's residence. Defendant's brief on appeal characterizes the bus driver as an alibi witness or res gestae witness. A res gestae witness has been described as "an eyewitness to some event in the continuum of a criminal transaction and [one] whose testimony will aid in developing a full disclosure of the facts surrounding the alleged commission of the charged offense." *People v Carter*, 415 Mich 558, 591; 330 NW2d 314 (1982), quoting *People v Hadley*, 67 Mich App 688, 690; 242 NW2d 32 (1976).

The bus driver cannot be classified as a res gestae witness. Assuming that defendant had taken a bus at approximately 9:00 p.m. the evening before the victim was found dead, the medical examiner was unable to pinpoint the time of death. Thus, the testimony of a bus driver that defendant was seen on a bus at 9:00 p.m., does not eliminate him as a suspect in the murder. Because the exact time of death cannot be determined, the bus driver could not be a res gestae or alibi witness. Even if the bus driver could identify defendant as a passenger on his bus that evening, there is no indication that the murder occurred when defendant was riding the bus.[4] Therefore, this issue does not have merit.

B. Failure to Object to Prosecutorial Misconduct

[4] We note that the prosecutor presented the testimony of a representative of the bus line. She testified that the bus company does not maintain records of individuals who ride the bus. Therefore, the only means of corroborating a ride on the bus would be if the individual driver recalled the passenger riding the bus. However, bus drivers generally could only recall passengers who were "regulars." There was no evidence that defendant was a "regular" traveler on the 9:00 p.m. bus route.

Defendant contends that trial counsel was ineffective for failing to object to the claimed prosecutorial misconduct. However, we have concluded that the prosecutor did not engage in misconduct, and defense counsel was not required to make meritless or futile objections. *People v Moorer*, 262 Mich App 64, 76; 683 NW2d 736 (2004). Therefore, we find no merit to this claim.

C. Failure to Object to the DNA Evidence

Defendant also contends that trial counsel was ineffective for failing to challenge the methodology of the DNA evidence. However, our review is limited to mistakes apparent on the record. *People v Cox*, 268 Mich App 440, 453; 709 NW2d 152 (2005). There is no evidence on the record support that the methodology employed with regard to the DNA testing was improper. The defense expert was provided information from the prosecutor's expert and testified that he did not take issue with the data provided. Accordingly, this challenge is without merit.

VII. Admission of DNA Evidence

Defendant next asserts that the trial court denied him a fair trial by failing to sua sponte address the proper foundation for admission of the DNA evidence. The parties stipulated to admit the DNA evidence and analysis, and case law provides that statistical evidence of DNA is generally admissible, but subject to challenge with regard to the weight of the evidence, not admissibility. See *People v Coy (After Remand)*, 258 Mich App 1, 10-11; 669 NW2d 831 (2003).[5] Moreover, defendant failed to present any documentary evidence addressing the foundation of the DNA evidence or challenging its acceptability in the scientific community. Accordingly, we cannot review this challenge.

VIII. Removal of Juror

Lastly, defendant alleges that the trial court abused its discretion by failing to remove a juror who was threatened and intimidated by other jurors. We disagree. The trial court's decision regarding juror removal is reviewed for an abuse of discretion. *People v Tate*, 244 Mich App 553, 559; 624 NW2d 524 (2001).

Review of the record reveals that a juror sent a note to the trial court indicating that she wanted to be removed from the panel. After a discussion in chambers, the juror stated that she did not feel that she was being listened to by the other jurors. When asked if she was intimidated, the juror indicated that the process was intimidating, but she was a strong person. In response to questioning by defense counsel, the juror stated that she could continue on the panel. Although the prosecutor suggested removing the panel member, defense counsel opposed the removal and asked that she remain on the panel. The trial court did not remove the juror.

[5] See also *People v Holtzer*, 255 Mich App 478, 484; 660 NW2d 405 (2003), holding that courts do not make a scientific judgment of the merits of the evidence, but only whether the scientific evidence is generally accepted in the scientific community.

Defendant cannot acquiesce to the trial court's handling of an issue in the trial court then challenge the ruling on appeal as error. *People v Fetterley*, 229 Mich App 511, 520; 583 NW2d 199 (1988). Moreover, we cannot conclude that the trial court abused its discretion in allowing the juror to continue. *Tate, supra*. After this incident, deliberations continued for three days. During this deliberation period, there was never any expression of dissension or intimidation raised by this juror or any other juror.

Affirmed.

/s/ William C. Whitbeck
/s/ Michael J. Talbot
/s/ Karen M. Fort Hood