

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PEARL LEE EVANS a/k/a DORA LEE JONES
a/k/a PEARL BERRY,

Defendant-Appellant.

UNPUBLISHED
February 23, 2012

No. 302414
Bay Circuit Court
LC No. 09-011089-FH

Before: HOEKSTRA, P.J., and CAVANAGH and BORRELLO, JJ.

PER CURIAM.

Defendant appeals as of right her jury conviction of embezzlement between \$1,000 and \$20,000 from a vulnerable adult, MCL 750.174a(1), (4)(a). Defendant was sentenced as an habitual offender, fourth offense, MCL 769.12, to 42 to 160 months' imprisonment, with 376 days of jail credit. For the reasons stated in this opinion, we affirm.

I. FACTS & PROCEEDINGS

Defendant was employed as a caregiver to the victim, Ronald Royster, when he lived in Bay City, Michigan. Royster was confined to a wheelchair and suffered from incontinence. Royster became comatose before his death, and was transferred to a hospital in the Chicago area. After Royster's death, his daughter who lived in Chicago, Karen Royster-James, reviewed his banking records. The bank records showed that money was being withdrawn from Royster's bank account during the time he was comatose, and that almost all of the money that was being deposited into Royster's account was being withdrawn. Additionally, the records indicated that there were insufficient fund fees and overdraft fees. Royster-James notified Bay City police about the suspicious withdrawals from Royster's bank account.

Detective Brian Berthiaume began investigating the case by obtaining bank records. Eventually, he obtained images from a credit union ATM camera depicting defendant withdrawing money from Royster's account. Royster's bank records indicated that money was being withdrawn frequently from a 7-11, a casino, and a credit union. Detective Berthiaume interviewed defendant, who admitted to using Royster's ATM card to withdraw money, but maintained that she was in a romantic relationship with Royster and that he authorized her use of the ATM card. Defendant was arrested, and initially, pursuant to a plea agreement, pleaded no

contest to the charge; however, defendant withdrew her plea when the trial court indicated that it would not accept the recommended sentence that was part of the plea deal.

During the trial, Detective Berthiaume testified to statements made by Royster's daughter, Royster-James, regarding the fact that Royster was in a coma before his eventual death. Royster-James did not testify, and did not travel to Bay City for the trial. Defense counsel objected to the testimony on hearsay grounds, and the trial court overruled defense counsel's objection and held that the testimony could be admitted pursuant to MRE 804(b)(4)(B).

Defendant's sister testified that Royster and defendant were in a romantic relationship and that Royster wanted to support defendant financially. Another friend of defendant similarly testified that Royster and defendant were in a romantic relationship. Royster's pastor testified that his understanding was always that defendant was employed as Royster's caretaker and that they did not have an intimate relationship. The pastor testified that defendant was wheelchair bound and incontinent. He also testified that Royster had a stroke and went into a coma, and that Royster's family asked him to travel to Chicago to proceed over Royster's funeral. The pastor testified that Royster did not trust defendant with handling his finances.

Royster's medical records and his bank statements were introduced as evidence during the trial. Defendant did not testify.

II. INSTRUCTIONAL ERROR

On appeal, defendant first maintains that the trial court committed plain error by improperly instructing the jury regarding the elements of the charged crime, embezzlement between \$1,000 and \$20,000 from a vulnerable adult, MCL 750.174a(1), (4)(a).

Because the instructions were not objected to during trial by either party, we review defendant's claim of error for plain error affecting defendant's substantial rights. *People v Knox*, 469 Mich 502, 508; 674 NW2d 366 (2004). Defendant must show that an error occurred, the error was plain, and the plain error affected his substantial rights. *People v Carines*, 460 Mich 750, 752-753, 764; 597 NW2d 130 (1999). Substantial rights are affected when the defendant is prejudiced, meaning the error affected the outcome of the trial. *Id.* at 763.

"Jury instructions must clearly present the case and the applicable law to the jury." *People v McGhee*, 268 Mich App 600, 606; 709 NW2d 595 (2005). Accordingly, the jury instructions "must include all the elements of the charged offenses and any material issues, defenses, and theories if supported by the evidence." *Id.* Even if the instructions are somewhat imperfect, reversal is only required if this Court finds that the instructions failed to fairly present the issues to be tried and failed to sufficiently protect defendant's rights. *People v Canales*, 243 Mich App 571, 574; 624 NW2d 439 (2000).

Defendant was charged with embezzlement between \$1,000 and \$20,000 from a vulnerable adult. The elements of embezzlement from a vulnerable adult are set forth in MCL 750.174a(1): "A person shall not through fraud, deceit, misrepresentation, coercion, or unjust enrichment obtain or use or attempt to obtain or use a vulnerable adult's money or property to directly or indirectly benefit that person knowing or having reason to know the vulnerable adult

is a vulnerable adult.” MCL 750.174a(4)(a) additionally provides that a person is guilty of a felony if the money or property used or obtained “has a value of \$1,000.00 or more but less than \$20,000.00.” “Vulnerable adult” is defined as an “individual age 18 or over who, because of age, developmental disability, mental illness, or physical disability requires supervision or personal care or lacks the personal and social skills required to live independently.” MCL 750.145m(u)(i).

The instructions that the trial court gave the jury were clearly based on the older version of the criminal statute that defendant was charged with violating in this case. The Legislature amended the statute in 2004; the previous version of the statute provided: “A person in a relationship of trust with a vulnerable adult shall not through fraud, deceit, misrepresentation, or unjust enrichment obtain or use or attempt to obtain or use the vulnerable adult’s money or property to directly or indirectly benefit that person.” The trial court instructed the jury that in order to convict defendant, it must find beyond a reasonable doubt that:

First, the defendant was in a relationship of trust with Ronald Lamont Royster. Second, . . . Ronald Lamont Royster was a vulnerable adult. Third, that the defendant used or obtained money from Ronald Lamont Royster through fraud, deceit, misrepresentation or unjust enrichment. And fourth, the money belonged to Ronald Lamont Royster. And fifth, the amount of money at issue was more than \$1,000.00 but less than \$20,000.00.

Accordingly, the trial court instructed the jury to find an element that the current statute does not require, that defendant was in a relationship of trust with the victim, and it failed to instruct the jury that it must find beyond a reasonable doubt that (1) defendant knew or had reason to know that Royster was a vulnerable adult, and that (2) defendant used Royster’s money to benefit herself either directly or indirectly. Jury instructions must inform the jury of all the elements of a charged offense, *McGhee*, 268 Mich App at 606, and we accordingly conclude that the trial court committed plain error when it failed to properly instruct the jury on the elements of embezzlement from a vulnerable adult, MCL 750.174a(1).

In order for this Court to grant defendant relief, defendant must also establish that the trial court’s plain error affected her substantial rights. Substantial rights are affected when the plain error is prejudicial, meaning the error affected the outcome of the trial. *Carines*, 460 Mich at 763. In this case, defendant did not contest that she was Royster’s caretaker or that she used Royster’s ATM card to obtain funds. Defendant’s theory at trial was that she was not guilty of embezzlement because she was in a romantic relationship with Royster and he authorized and approved her use of his money; accordingly, defendant contested only the element of fraud, deceit, misrepresentation, coercion or unjust enrichment. MCL 750.174a(1). Consequently, the outcome of the trial was not affected by the trial court’s failure to instruct the jury on the proper elements of the charged crime because defendant did not contest the omitted elements; therefore, the jury would not have acquitted defendant on the basis of either of the omitted elements.

Further, a defendant’s rights are sufficiently protected when a jury would have convicted the defendant on the basis of the evidence regardless of an instructional error. *People v Kowalski*, 489 Mich 488, 506; 803 NW2d 200 (2011). “If the evidence related to the missing elements was overwhelming and uncontested, it cannot be said that the error affected the

defendant's substantial rights or otherwise undermined the outcome of the proceedings." *Id.* In this case, the evidence presented at trial supported a finding that defendant knew Royster was a vulnerable adult and used the money for her own benefit. The evidence demonstrated and defendant did not contest that Royster was confined to a wheelchair and suffered from incontinence, and that defendant was his caretaker. This evidence demonstrates that defendant knew that Royster was a vulnerable adult. Further, the evidence demonstrated that defendant repeatedly withdrew money from Royster's account at a 7-11, a casino, and a credit union. Defendant did not claim to use the money to benefit Royster or some other person; rather, it was implicit that she used the money for herself. Specifically, defendant's defense was that Royster wanted to "take care of her," and that was why he authorized her use of his money.

We conclude that defendant has failed to demonstrate that the plain error affected her substantial rights. Accordingly, defendant is not entitled to any relief on this issue.

Defendant also argues that defense counsel was ineffective for failing to object to the jury instructions regarding the elements of the charged offense.

Because no evidentiary hearing was held regarding defendant's ineffective assistance of counsel claim, our inquiry is limited to mistakes apparent on the record. *People v Davis*, 248 Mich App 655, 666; 649 NW2d 94 (2002). To establish ineffective assistance of counsel, a defendant must show that counsel's performance fell below an objective standard of reasonableness, and that there is a reasonable probability that, but for counsel's errors, the result of the proceedings would have been different. *People v Frazier*, 478 Mich 231, 243; 733 NW2d 713 (2007).

Even assuming defense counsel's failure to object to the erroneous jury instructions fell below an objective standard of reasonableness, defendant cannot establish the prejudice prong of the test for ineffective assistance of counsel. As discussed *supra*, the instructional error did not affect the outcome of the proceedings. Consequently, defendant has failed to meet her burden of demonstrating ineffective assistance of counsel.

III. SUFFICIENCY OF THE EVIDENCE

Defendant also challenges the sufficiency of the evidence presented in regard to whether she knew or should have known that Royster was a vulnerable adult, and whether she used the money to directly or indirectly benefit herself. MCL 750.174a(1).¹

We review a challenge to the sufficiency of the evidence *de novo*. *People v Harrison*, 283 Mich App 374, 377; 768 NW2d 98 (2009). The evidence is viewed in a light most favorable to the prosecution to determine whether a rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *Id.* at 377-378. It is the role of

¹We note that in her brief on appeal, defendant does not argue that there was insufficient evidence to prove that the money was obtained through fraud, deceit, misrepresentation, coercion, or unjust enrichment.

the finder of fact to make decisions about the credibility of witnesses and the probative value of evidence. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). All conflicts in the evidence must be resolved in favor of the prosecution. *People v Kanaan*, 278 Mich App 594, 619; 751 NW2d 57 (2008).

In order to convict defendant, the jury had to find beyond a reasonable doubt that defendant “through fraud, deceit, misrepresentation, coercion, or unjust enrichment” obtained, used, or attempted to obtain and use, “a vulnerable adult’s money or property to directly or indirectly benefit [herself] knowing or having reason to know the vulnerable adult is a vulnerable adult.” MCL 750.174a(1). Defendant challenges only the evidence to support the conclusion that she knew Royster was a vulnerable adult and that she used the money to benefit herself.

Defendant did not contest that she was Royster’s caretaker, or that Royster was confined to a wheelchair and incontinent. When viewed in the light most favorable to the prosecution, the fact that defendant took care of Royster and knew about his medical condition is sufficient to demonstrate that defendant had knowledge of the fact that Royster was a vulnerable adult. Further, defendant’s claim during trial that Royster authorized her use of his money because he wanted to “take care of her” supports the conclusion that defendant used the money to benefit herself. “An actor’s intent may be inferred from all of the facts and circumstances, . . . and because of the difficulty of proving an actor’s state of mind, minimal circumstantial evidence is sufficient.” *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998) (citations omitted). It is reasonable to infer that the money withdrawn from Royster’s account at the casino and 7-11 while Royster was in a coma was not used to benefit Royster. Further, whether defendant used the money for her own benefit was not contested. Accordingly, when the evidence is viewed in the light most favorable to the prosecution, it supports the conclusion that defendant was using the money for her own benefit. Therefore, we conclude that there was sufficient evidence to support defendant’s conviction.

IV. RIGHT TO CONFRONTATION

Defendant argues that the trial court improperly admitted hearsay testimony, and that this evidentiary error violated her right to confrontation. Specifically, defendant objects to Detective Berthiaume’s testimony at trial that Royster’s daughter, Royster-James, told him that Royster was comatose before he died. Defense counsel objected to the testimony on hearsay grounds, and the trial court overruled defense counsel’s objection and held that the statements could be admitted pursuant to MRE 804(b)(4)(B). Consequently, Detective Berthiaume was permitted to testify that Royster-James informed him that Royster fell into a coma around October 2008. Defendant argues that the trial court abused its discretion when it admitted the statement under MRE 804(b)(4)(B), and that admission of the statement violated her Sixth Amendment right to confrontation.

Defense counsel objected to the detective’s testimony on hearsay grounds, but did not object on Confrontation Clause grounds. Accordingly, we review defendant’s Confrontation Clause argument for plain error affecting defendant’s substantial rights. *Carines*, 460 Mich at 764, 774. We review a trial court’s admission of evidence in the face of an objection for an abuse of discretion. *People v Waclawski*, 286 Mich App 634, 670; 780 NW2d 321 (2009). An abuse of discretion occurs when a trial court chooses an outcome that is outside the range of

reasonable and principled outcomes. *Id.* We review de novo the interpretation of the Michigan Rules of Evidence. *People v Gursky*, 486 Mich 596, 606; 786 NW2d 579 (2010).

Defendant first argues that the trial court abused its discretion when it allowed the detective's testimony pursuant to MRE 804(b)(4)(B).

MRE 804(b) sets forth testimony that is not excluded by the hearsay rule if the declarant is unavailable as a witness at trial. MRE 804(a) provides that a declarant is unavailable if:

- (1) is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement; or
- (2) persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so; or
- (3) has a lack of memory of the subject matter of the declarant's statement; or
- (4) is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or
- (5) is absent from the hearing and the proponent of a statement has been unable to procure the declarant's attendance (or in the case of a hearsay exception under subdivision (b)(2), (3), or (4), the declarant's attendance or testimony) by process or other reasonable means, and in a criminal case, due diligence is shown.

The trial court found that Royster-James was unavailable, and that the detective's testimony regarding her statements was admissible pursuant to MRE 804(b)(4)(B) which provides:

[A] statement concerning the [birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history], and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

In regard to Royster-James' unavailability, the prosecutor represented to the trial court that Royster-James lives in Chicago and "possesses no transportation of her own." The prosecutor argued that because the trial was previously adjourned, it was unable to secure the presence of Royster-James for this trial. We conclude that the trial court abused its discretion when it determined Royster-James was unavailable on the facts of this case. There was no evidence presented to support a finding of unavailability pursuant to the court rule. Nevertheless, even if Royster-James was unavailable, her statement regarding Royster's comatose condition does not fall within the exception set forth in MRE 804(b)(4)(B). It is not disputed that the testimony was offered to prove the truth of the matter asserted, and was therefore hearsay. MRE 801(c). Further, the statement that her father was in a coma does not fit within any of the enumerated family history hearsay exceptions – birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, marriage, ancestry, or other similar fact of

personal or family history, and death. Medical conditions are clearly not included in the plain language of the rule. Accordingly, we conclude that the trial court abused its discretion when it permitted the detective's testimony.

While we conclude that the trial court erred when it admitted the detective's hearsay testimony, an error in the admission of evidence is not grounds for reversal unless "after an examination of the entire cause, it shall affirmatively appear that it is more probable than not that the error was outcome determinative." *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999) (quotations omitted); *People v Knapp*, 244 Mich App 361, 378; 624 NW2d 227 (2001). An error is outcome determinative if it "undermined the reliability of the verdict." *People v Rodriguez*, 463 Mich 466, 474; 620 NW2d 13 (2000). We examine the error "in light of the weight and strength of the untainted evidence." *Id.*

In this case, Royster's pastor properly testified that Royster was comatose before he died. Therefore, the improperly admitted hearsay cannot be said to be outcome determinative because the subject matter of the hearsay was properly testified to by another witness. Further, the fact that Royster was comatose before death was not a fact necessary for the proof of any of the elements of the charged crimes; accordingly, the reliability of the jury's verdict was not undermined by the improperly admitted testimony. Defendant argues that the fact that Royster was in a coma was necessary for the jury's conclusion that Royster was a vulnerable adult; however, Royster's vulnerability could also be established based on the fact that he required in home care, was wheelchair bound, and incontinent, as discussed *supra*. See MCL 750.145m(u)(i). Finally, it was never disputed that Royster was in a coma, and the exact date that he fell into a coma was not important.

Next defendant argues that the hearsay testimony violated her Sixth Amendment right to confrontation.

The Confrontation Clause of the United States Constitution provides that "[i]n all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with all witnesses against him." US Const, Am VI. The Michigan Constitution provides the same right to criminal defendants. Const 1963, art 1, § 20. "The Confrontation Clause of the Sixth Amendment bars the admission of testimonial hearsay unless the declarant is unavailable and the defendant has had a prior opportunity for cross-examination." *People v Payne*, 285 Mich App 181, 197; 774 NW2d 714 (2009), citing *Crawford v Washington*, 541 US 36, 68; 124 S Ct 1354; 158 L Ed 2d 177 (2004).

Defendant argues that the error affected her substantial rights because the jury would have been unable to find that Royster was a vulnerable adult if it was not informed that Royster was in a coma while defendant was using his ATM card. Assuming without deciding that the testimony was testimonial hearsay, defendant cannot establish that the error violated her substantial rights. As explained earlier, Royster's vulnerability could have been established based on the fact that he required in-home care and was wheelchair bound. See MCL 750.145m(u)(i). Accordingly, any error was not prejudicial, because the error did not affect the outcome of the trial. *Carines*, 460 Mich at 763.

V. ISSUES RAISED IN DEFENDANT'S STANDARD 4 BRIEF

Defendant raises several issues on appeal not addressed by appellate counsel. The majority of defendant's claims of error are unpreserved; accordingly, we review these claims for plain error affecting her substantial rights. *Carines*, 460 Mich at 764, 774. Defendant properly preserved her claim that her bond was excessive; accordingly, we review the trial court's determination of sufficient bond in a criminal case for an abuse of discretion. MCR 7.209(B)(2). An abuse of discretion occurs when a trial court selects an outcome that is outside the range of reasonable and principled outcomes. *Waclawski*, 286 Mich App at 670.

Defendant first argues that the trial court abused its discretion and violated her due process rights when it "vacated" her plea agreement. This argument is predicated on a mischaracterization of the events in the trial court. Defendant first pleaded no contest to the charge pursuant to a plea agreement; however, defendant later withdrew her plea because the trial court refused to impose the sentence recommended by the prosecution as part of the plea agreement. At her sentencing hearing stemming from her no contest plea, the trial court indicated that it was not willing to follow the prosecutor's sentencing recommendation given defendant's prior criminal history. The trial court informed defendant that she could withdraw her plea, and after consultation with her attorney, defendant did withdraw her guilty plea. Accordingly, the trial court did not "vacate" defendant's plea or otherwise infringe on defendant's due process rights because defendant voluntarily chose to withdraw her plea.

Defendant also claims that the trial court erred because it did not specifically state that it was deferring its decision on whether to accept the prosecutorial sentence recommendations until the presentence investigation report was prepared. After concluding that defendant's plea was knowingly and voluntarily given, the trial court simply stated, "I will accept it and enter it upon the records." It is clear that the trial court did not have the presentence investigation report when it accepted the plea. Accordingly, the trial court should have explained to defendant that it was not bound to follow the sentence disposition or recommendation agreed to by the prosecutor, and that if it declined to follow the recommendation, defendant was allowed to withdraw from the plea agreement. MCR 6.302(C)(3). Nevertheless, defendant does not explain how this error violated her right to due process. She does not assert that she would have proceeded differently if she had been told the trial court might not go along with the sentencing recommendation. Moreover, defendant was informed at sentencing that the trial court was not going to follow the recommended sentencing disposition, and it allowed her to withdraw her plea. See *People v Swirles*, 218 Mich App 133, 140; 553 NW2d 357 (1996) ("The only potential limit to the court's sentencing discretion is the plea agreement itself, but the court is free to disregard the agreement as long as it affords the defendant the opportunity to withdraw his guilty plea."). Accordingly, defendant is not entitled to any relief because she has not established plain error affecting her substantial rights. *Carines*, 460 Mich at 764, 774.

Defendant additionally argues that defense counsel rendered ineffective assistance in pursuing a plea on her behalf. In this case, the plea would have resulted in a sentence of probation if accepted by the trial court. Defense counsel's decision to pursue a plea deal on behalf of defendant was reasonable trial strategy. See *People v Matuszak*, 263 Mich App 42, 58; 687 NW2d 342 (2004) (holding there is a strong presumption that counsel's performance constituted sound trial strategy). "A particular strategy does not constitute ineffective assistance of counsel simply because it does not work." *Id.* at 61. Thus, defendant has not overcome the presumption that she received effective assistance of counsel. *Id.*

Defendant also raises a speedy trial argument; however, this argument is premised on her repeated mischaracterization of her plea withdrawal. Defendant argues that her right to a speedy trial was violated because the trial court moved “to withdraw the plea before sentencing,” and that the trial court had the “burden” to establish a “fair and just reason for the withdrawal of the plea.” Accordingly, defendant’s speedy trial argument is without merit because the record indicates that defendant voluntarily withdrew her plea when the trial court declined to accept the sentence recommended pursuant to the plea agreement.

Next defendant argues that because this case was reassigned more than once, the trial court implemented a procedure whereby it engaged in the equivalent of forum shopping for purposes of finding a judge favorable to an intended result. Defendant fails to support her argument. Indeed, she does not even indicate what the desired result was or explain how the reassignment prejudiced her in any way. Accordingly, defendant has not demonstrated that the reassignment of her case was plain error affecting her substantial rights. *Carines*, 460 Mich at 764, 774.

Defendant also claims that there was a “cover-up,” based on her assertion that the “entries as shown [presumably the trial court docket entries] are devoid of an accurate depiction or account of events and procedure.” The only asserted error, however, is that the docket indicates her preliminary examination was presided over by the “Honorable Sheeran,” whereas it was actually presided over by District Court Judge Timothy Kelly. Defendant has simply misread the case register of actions. Event number one does identify Bay Circuit Court Judge Joseph Sheeran, but it is as the judge assigned to the case in trial court, not the judge who presided over defendant’s preliminary examination. Accordingly, defendant has not demonstrated any plain error affecting her substantial rights. *Carines*, 460 Mich at 764, 774.

Defendant next asserts that the trial court imposed excessive bail in violation of her federal and state constitutional rights when it imposed a \$100,000 bail after it had previously released her on a \$1,000 personal recognizance bond. Following the plea hearing, the trial court released defendant on a \$1,000 personal recognizance bond. After her release, defendant appeared at the sentencing hearing, where she withdrew her plea when the trial court indicated that it was not willing to follow the prosecutor’s sentencing recommendation. The trial court then remanded defendant into custody and scheduled a bond hearing. After the bond hearing, the trial court kept the bond at \$100,000, as set by the district court.

Defendant fails to articulate support for her argument that the bond was excessive. She merely concludes that it violated her constitutional rights because it was 100 times greater than the personal recognizance bond. Defendant does not provide any caselaw regarding what constitutes excessive bond or apply the facts of this case to the relevant law. She primarily relies on MCR 6.106(B), which concerns denial of pretrial release; however, this rule is inapplicable because the trial court did not deny her pretrial release. It conditioned her release on posting a cash surety bond or ten percent, ostensibly pursuant to MCR 6.106(E).

The record indicates that the trial court set bond at \$100,000 because it concluded that there existed a probability of flight given defendant’s past history of incarceration. A defendant’s prior criminal record is one of the factors set forth in MCR 6.106(F) for a trial court

to consider when determining the terms and conditions of bond. Under these circumstances, we cannot conclude that the trial court abused its discretion. *Waclawski*, 286 Mich App at 670.

We decline to address the other issues raised by defendant and find that her additional arguments are abandoned because she failed to support her claims with citation to the record or relevant supporting authority. Defendant asserts that the cumulative effect of several alleged trial errors denied her due process and a fair trial, or that her counsel was ineffective for allowing the alleged errors to occur. Defendant's list of perceived errors is unsupported in any meaningful way. She does not identify the relevant law or apply it to any specific decision or action by the trial court. She further fails to provide any specific argument in regard to how the trial court's actions indicate bias or establish that defendant was denied her right to a fair trial. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims, nor may he give only cursory treatment with little or no citation of supporting authority." *People v Kelly*, 231 Mich App 627, 640; 588 NW2d 480 (1998).

Affirmed.

/s/ Joel P. Hoekstra

/s/ Mark J. Cavanagh

/s/ Stephen L. Borrello