STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME J. HUNLEY,

Defendant-Appellant.

UNPUBLISHED
May 19, 2000

No. 211257
Oakland Circuit Court
LC No. 97-153796-FC

Before: Smolenski, P.J., and Markey and O'Connell, JJ.

PER CURIAM.

Following a jury trial, defendant was found guilty but mentally ill of involuntary manslaughter, MCL 750.321; MSA 28.553, after he was involved in a motor vehicle accident in which one person was killed. Defendant now appeals by right. We affirm.

Defendant first asserts that the trial court erred in denying his motion for a directed verdict because the evidence presented by the prosecutor at trial regarding his sanity was insufficient. We disagree. When ruling on a motion for a directed verdict, the court must view the evidence presented by the prosecutor up to the time the motion was made, in the light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *People v Vincent*, 455 Mich 110, 121; 565 NW2d 629 (1997), quoting *People v Hampton*, 407 Mich 354, 368; 285 NW2d 284 (1979).

Effective October 1, 1994, legal insanity is an affirmative defense and "[t]he defendant has the burden of proving the defense of insanity by a preponderance of the evidence." MCL 768.21a(3); MSA 28.1044(1)(3); *People v McRunels*, 237 Mich App 168, 173; 603 NW2d 95 (1999).[1] A person is legally insane if, "as a result of mental illness . . . , that person lacks substantial capacity either to appreciate the nature and quality of the wrongfulness of his or her conduct or to conform his or her conduct to the requirements of the law." MCL 768.21a(1); MSA 28.1044(1)(1). Mental illness is defined as "a substantial disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life." MCL 330.1400(g); MSA 14.800(400)(g).

In the instant case, although defendant claims that his insanity was established by three expert witnesses, that is not the case. Dr. Lewis and Dr. Clark testified that defendant was mentally ill and legally insane at the time of the offense; however, Dr. Rosenberg testified that defendant was mentally ill. Dr. Lewis testified that it was possible that he could be wrong in his evaluation of defendant and that it was unusual that defendant had not exhibited clear evidence of psychosis before the instant offense occurred.

Other evidence presented at trial also suggested that defendant was not legally insane. The testimony of lay witnesses presented at trial can be sufficient to rebut an expert's testimony that a defendant is legally insane, *People v Murphy*, 416 Mich 453, 465; 331 NW2d 152 (1982); *People v Clark*, 172 Mich App 1, 8; 432 NW2d 173 (1988), and the factfinder is not bound to accept the opinion of an expert witness, *Clark*, *supra* at 9. Furthermore, this Court will not interfere with the jury's role of determining the weight of evidence or the credibility of witnesses. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992), quoting *People v Palmer*, 392 Mich 370, 375-376; 220 NW2d 393 (1974).

In the present case, defendant's grandmother testified at trial that defendant had visited her immediately before the accident and did not exhibit any unusual behavior. The grandmother also testified that she was not aware of any mental problems that defendant had before the offense. Defendant's father, with whom defendant lived, also testified that defendant had not demonstrated any bizarre behavior before the instant offense. One of defendant's co-workers at Dupont also testified that defendant had not exhibited any unusual behavior during the month before the accident. In addition, a videotape was entered into evidence to show that defendant was not exposed to chemicals released from a massive paint spill two days before the offense at his place of employment, Dupont. The evidence also revealed that, immediately before the accident, defendant had obeyed at least some of the traffic laws, including stopping at a red light and returning to his own lane, thereby indicating an ability to control his actions. Thus, the jury apparently accepted the lay witnesses' testimony regarding defendant's normal behavior and the experts' testimony that defendant was mentally ill, but rejected the evidence that defendant was legally insane. The evidence presented was sufficient to support the jury verdict in this case.

Defendant also argues that the trial court erred in its instructions to the jury. Specifically, defendant asserts that the trial court did not instruct the jury, in accordance with MCL 768.36(1)(c); MSA 28.1059(1)(c), that if the jury returned a verdict of guilty but mentally ill, which it did in this case, then the jury should return a verdict that defendant was not legally insane at the time of the offense. Because defendant failed to object to the instructions or request that such an instruction be given, he has waived this issue. Our review of this issue is limited to whether defendant has established a plain error that affected his substantial rights. *People v Carines*, 460 Mich 750, 761-764, 774; 597 NW2d 130 (1999). In this case, there was no plain (i.e., clear or obvious) error that affected defendant's substantial rights (i.e., prejudiced defendant). *Id*. at 763.

Reading the instructions in their entirety, we conclude that the instructions fairly presented the issues to be tried and sufficiently protected defendant's rights. *People v Bell*, 209 Mich App 273, 276; 530 NW2d 167 (1995). Although defendant argues that the trial court did not give a jury instruction in accordance with MCL 768.36(1); MSA 28.1059(1), this is not the case. After explaining defendant's burden of establishing legal insanity, the trial court defined "mental illness" and "legal insanity" to the jury and the steps the jury had to go through in order to establish both. Our review of the instructions reveal that the instruction in question as given by the court was in accordance with MCL 768.36; MSA 28.1059.

In rendering the guilty but mentally ill verdict, the jury, pursuant to the trial court's instructions, must have found implicitly beyond a reasonable doubt based on all the evidence presented in the case that defendant was not legally insane at the time of the commission of the offense. Although defendant states that such a finding was not made on the record, defendant has cited no authority that this finding was required to be made on the record. This Court will not search for authority to sustain a party's position; therefore, this issue is waived. *People v Griffin*, 235 Mich App 27, 45; 597 NW2d 176 (1999); *People v Hanna*, 223 Mich App 466, 470; 567 NW2d 12 (1997).

Defendant raises several instances of prosecutorial misconduct, none of which have merit. Because defendant failed to object to the alleged instances of prosecutorial misconduct, this issue is unpreserved. Our review is limited to determining whether defendant has established a plain error that affected his substantial rights. *Carines, supra*. In the context of prosecutorial misconduct specifically, review is foreclosed unless the prejudicial effect of the remark could not have been cured by a curative instruction. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994); *People v Turner*, 213 Mich App 558, 575; 540 NW2d 728 (1995). Prosecutorial misconduct issues are decided on a case-by-case basis. *People v Paquette*, 214 Mich App 336, 342; 543 NW2d 342 (1995). After examining the relevant portions of the record and evaluating the prosecutor's remarks in context, we conclude that either the prosecutor's comments were proper or a curative instruction could have eliminated any prejudice to defendant; thus, defendant was not denied a fair and impartial trial. *Id*.

First, defendant argues that the prosecutor appealed to the jury's sympathy and civic duty to make defendant "accountable" and that the jury's failure to convict would be inconsistent with its duty. Defendant's assertion is without merit. Even assuming that these brief comments appealed to the jury for sympathy, any prejudicial effect could have been cured with a requested curative instruction. *People v Swartz*, 171 Mich App 364, 372-373; 429 NW2d 905 (1988). Moreover, earlier in the prosecutor's closing argument, he specifically told the jurors that they "must not let sympathy affect [their] verdict." In addition, defense counsel also asked the jury not to let sympathy play a role in its verdict. More importantly, the trial court specifically instructed the jury that it "must not let sympathy or prejudice influence [its] decision."

Defendant also argues that the prosecutor characterized the expert testimony as "speculation." Defendant's argument is without merit that the prosecutor misled the jury by making these comments. Reading the comments in context, the prosecutor was merely arguing the evidence and all reasonable inferences arising therefrom as they related to his theory of the case, i.e., that defendant knew right from

wrong and was not legally insane. *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995), quoting *People v Gonzalez*, 178 Mich App 526, 535; 444 NW2d 228 (1989); *People v Fisher*, 220 Mich App 133, 156; 559 NW2d 318 (1996). In making the comments regarding the doctors' speculation, the prosecutor also raised several instances where defendant was able to control his actions and knew right from wrong. Moreover, even if the comments were improper, any error could have been cured if defendant had requested that an instruction be given to the jury.

Defendant also asserts that the prosecutor improperly negated the possibility of a "not guilty by reason of insanity" verdict by stating that if the defendant was mentally ill, then the appropriate verdict would not be "not guilty," but rather, "guilty but mentally ill." Even assuming that the prosecutor's remarks were improper, a request for a curative instruction could have cured any error. Moreover, even without defendant's request, any error was cured by the trial court instructing the jury at the end of closing arguments that it was the court's duty to instruct the jury and that the jury must take the law as given by the trial court. Further, the court stated: "If a lawyer says something different about the law, follow what I say." The court instructed the jury that "[t]he lawyers' statements and arguments are not evidence" and "[y]ou should only accept things the lawyers say that are supported by the evidence or by your own common sense and general knowledge." The trial court also instructed the jury twice on the definitions of mental illness and legal insanity.

Defendant argues that the trial court should not have allowed Officers Hauff and Swift to testify regarding a conversation they overheard between defendant and Dr. Rosenberg, defendant's treating psychiatrist, because defendant was not given his *Miranda*[2] warnings and the officers improperly used Dr. Rosenberg as their agent to obtain statements from defendant. This argument is without merit. "The decision whether to admit or exclude evidence is within the trial court's discretion." *McRunels, supra* at 183.

At trial, with respect to Officer Hauff's testimony, defendant did object below, albeit on different grounds as that stated on appeal. With respect to Officer Swift's testimony, defendant did not object below. Because defendant did not object to Officer Swift's testimony below and did not raise the specific objections below that are now being stated on appeal with respect to Officer Hauff's testimony, the argument is waived. MRE 103(a)(1); *People v Grant*, 445 Mich 535, 545, 553; 520 NW2d 123 (1994); *Griffin, supra* at 44. This Court reviews unpreserved claims of constitutional error for plain error. *Carines, supra* at 764; *McRunels, supra* at 171. "To avoid forfeiture under the plain error rule, three requirements must be met: 1) error must have occurred, 2) the error was plain, i.e., clear or obvious, 3) and the plain error affected substantial rights." *Carines, supra* at 763. "Reversal is warranted only when the plain, forfeited error resulted in the conviction of an actually innocent defendant or when the error seriously affected the fairness, integrity, or public reputation of judicial proceedings independent of the defendant's innocence." *McRunels, supra* at 171-172. We conclude that no error occurred; therefore, reversal is not required.

Although defendant argues on appeal that the testimony of the officers should not have been admitted because, although defendant was in custody, no *Miranda* warnings were given, it appears from the record that defendant was given his *Miranda* rights and refused to waive them. As correctly

pointed out by the prosecutor, to the extent that the officers overheard Dr. Rosenberg's questions and defendant's statements, no *Miranda* violation occurred in this case because the officers did not interrogate defendant. Further, although defendant argues that the police officers improperly used Dr. Rosenberg as their agent to obtain statements from defendant, this is not the case. Dr. Rosenberg did not even know that the police officers were in the area, nor did the police officers know what questions Dr. Rosenberg would ask defendant. The officers were in an open area of the hospital twenty to twenty-five feet from the trauma room keeping an eye on defendant because he had tried to escape just prior to Dr. Rosenberg performing his evaluation. The officers were justified in being close to the treatment area. Further, Dr. Rosenberg himself testified regarding his evaluation of defendant and his conversation with defendant, some of which was duplicative of the officers' statements. Moreover, at trial, the parties stipulated to admitting into evidence defendant's Beaumont Hospital medical records, which included the notes and evaluations of Dr. Rosenberg. Thus, this argument is without merit because no error occurred in admitting the testimony.

Defendant argues that the trial court improperly found that the prosecutor's reasons for peremptorily dismissing the only two African-American jurors from the jury were sufficient to overcome a showing of discriminatory purpose under *Batson v Kentucky*, 476 US 79; 106 S Ct 1712; 90 L Ed 2d 69 (1986). We disagree. "To overcome a claim of discriminatory purpose, the prosecution must provide a racially neutral explanation for peremptorily excluding racial minorities from the venire, and the trial court must decide if the defendant proved purposeful discrimination." *People v Ho*, 231 Mich App 178, 184; 585 NW2d 357 (1998); see, also, *Batson, supra* at 97-98. This Court reviews the trial court's *Batson* ruling for an abuse of discretion. *Ho, supra*.

After reviewing the testimony of the two jurors in question and the explanations given by the prosecutor, we conclude that the prosecutor's reasons for peremptorily dismissing the jurors constituted racially "neutral explanation[s] related to the particular case being tried." *People v Howard*, 226 Mich App 528, 534; 575 NW2d 16 (1997). During jury voir dire, Juror Thompson stated that he was "kind of slow" in understanding some of the questions being asked of him and that he might have a grudge in this case because of a prior bad experience with the police department. Juror Ogilvie stated that he might feel sympathy toward someone involved in a motor vehicle accident because of his occupation as a truck driver and that he did not think that he could be a good juror in this case because his brother was "mentally disabled." The trial court did not abuse its discretion in rejecting defendant's claim of purposeful discrimination.

Defendant next argues that the trial court should have granted his motion for a mistrial because witness Kathleen Gripentrog, a paramedic, testified, contrary to the parties' stipulation, that defendant was faking unconsciousness. We disagree. "This Court reviews a lower court decision regarding a motion for a mistrial for an abuse of discretion." *Griffin*, *supra* at 36.

Although the parties stipulated that Gripentrog could not testify that defendant was faking unconsciousness and Gripentrog had been told by the prosecutor not to mention that she believed defendant was faking, "not every instance of mention before a jury of some inappropriate subject matter warrants a mistrial." *Id*. In the present case, Gripentrog volunteered the answer in response to a

proper question asked by the prosecutor. "An unresponsive, volunteered answer to a proper question is not grounds for the granting of a mistrial." *Id.*, quoting *People v Haywood*, 209 Mich App 217, 228; 530 NW2d 497 (1995). Moreover, the trial court immediately gave a strong curative instruction for the jury to disregard the testimony of Gripentrog that defendant was faking. Further, during the testimony of Dr. Ronald Lewis, an expert witness in forensic psychology called as a defense witness, Lewis commented on Gripentrog's testimony regarding defendant "faking" unconsciousness and explained that defendant was more likely to have been catatonic in the mental illness sense rather than faking unconsciousness. Lewis' testimony, in addition to the trial court's strong curative instruction, eliminated any prejudice to defendant. The trial court did not abuse its discretion in denying the mistrial.

Defendant also argues that the trial court improperly denied his motion for a directed verdict after trial, which sought the relief of a verdict of not guilty by reason of insanity, because the verdict rendered by the jury was against the great weight of the evidence. We disagree. In his argument, defendant attempts to combine two different concepts of law: directed verdict and great weight of the evidence. Defendant argues that because the jury verdict was against the great weight of the evidence, the trial court should have directed a verdict and entered a verdict of not guilty by reason of insanity. However, when a verdict is against the great weight of the evidence, the proper remedy is to grant a new trial on some or all of the issues. See MCR 2.611(A)(1)(e); *People v Gadomski*, 232 Mich App 24, 27-28; 592 NW2d 75 (1998). "An objection going to the weight of the evidence can be raised only by a motion for a new trial." *People v Bradshaw*, 165 Mich App 562, 565; 419 NW2d 33 (1988), quoting *People v Strong*, 143 Mich App 442, 450; 372 NW2d 335 (1985). Because defendant did not raise this issue below by moving for a new trial, this issue is waived. *People v Winters*, 225 Mich App 718, 729; 571 NW2d 764 (1997). Absent manifest injustice, this Court will not address this issue. *People v Noble*, 238 Mich App 647, 658; ___ NW2d ___ (1999). As previously discussed above, "the evidence in this case did not clearly weigh in defendant's favor." *Id.* "Because the evidence reasonably supports the verdict in this case, no miscarriage of justice will result from our failure to consider this issue or remand for a hearing regarding this issue." *Id.*

With respect to defendant's directed verdict motion, this Court tests the validity of the motion by the same standard as the trial court. *People v Daniels*, 192 Mich App 658, 665; 482 NW2d 176 (1992). "When ruling on a motion for a directed verdict, the court must consider the evidence presented by the prosecutor, up to the time the motion was made, in the light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the charged crime were proven beyond a reasonable doubt." *Id.* Viewing the evidence in a light most favorable to the prosecutor, the evidence presented was sufficient to support the jury verdict in this case that defendant was mentally ill, but not legally insane at the time of the offense. In rendering the guilty but mentally ill verdict, the jury, pursuant to the trial court's instructions, must have found implicitly beyond a reasonable doubt that defendant was not legally insane at the time of the commission of the offense. This issue is without merit.

Defendant asserts that the trial court should have allowed testimony from a paramedic that when she arrived at the scene of the accident, a man came up to her and stated that she should "look out for

this guy [i.e., defendant], he's crazy." "The decision whether to admit or exclude evidence is within the trial court's discretion." *McRunels, supra.*

Even assuming that the trial court abused its discretion in not allowing the statement to be admitted, which we doubt, any error in the exclusion was harmless. "[A] preserved, nonconstitutional error is not a ground 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, 496; 596 NW2d 607 (1999), quoting MCL 769.26; MSA 28.1096. Defendant has not established that this preserved, nonconstitutional error resulted in a miscarriage of justice under a "more probable than not" standard. Given all the other evidence presented at trial, including, inter alia, the testimony of defendant's family members and co-worker stating that defendant had not exhibited any unusual behavior before the accident and the testimony of witnesses to the accident that suggested that defendant was able to control his actions immediately before the accident, we do not believe that it is more probable than not that a different outcome would have resulted had this brief statement by an unknown declarant been admitted. *Id.* at 495. Thus, no reversal is required.

Defendant argues that, rather than instructing the jury that it could "not" use its personal knowledge, the trial court improperly instructed the jury that it could use its own personal knowledge when deliberating. This issue is without merit. The jury instruction in question, CJI2d 3.5(9), states: "You should use your own common sense and general knowledge in weighing and judging the evidence, but you should *not* use any personal knowledge you may have about a place, person, or event" (emphasis added). Although defendant is correct that the initial January 13, 1998 transcript issued by the court reporter states that the trial court told the jurors that they "should use any personal knowledge you may have . . . on a person[,] place[,] or event," the court reporter issued an errata sheet on January 12, 1999, correcting the error and stating that the omission of the word "not" had been a typographical error. Thus, this issue is without merit.

Defendant asserts that the prosecutor failed to establish at trial the identity of the deceased, an element of the offense. Specifically, defendant argues that it was never proven at trial that the person killed during the accident was Olivera Atleski. We disagree. In reviewing a sufficiency of the evidence claim, this Court must "view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *Carines, supra* at 757, quoting *Wolfe, supra* at 515. "Circumstantial evidence and reasonable inferences arising from that evidence can constitute satisfactory proof of the elements of the crime." *Carines, supra*, quoting *People v Allen*, 201 Mich App 98, 100; 505 NW2d 869 (1993).

Defendant was found guilty but mentally ill of involuntary manslaughter with a motor vehicle. "Involuntary manslaughter is established if the defendant acts in a grossly negligent, wanton, or reckless manner, causing the death of another." *People v Moseler*, 202 Mich App 296, 298; 508 NW2d 192 (1993). In accordance with CJI2d 16.12, the standard jury instruction on involuntary manslaughter with a motor vehicle, the trial court in the present case instructed the jury, with respect to the identity element of the offense, that in order to convict, the jury had to find that defendant's negligence was a substantial

cause of an accident resulting in injuries to Olivera Atleski and that those injuries caused the death of Olivera Atleski. See, also, *People v Lardie*, 452 Mich 231, 248 n 28; 551 NW2d 656 (1996).

Contrary to defendant's argument, the evidence adduced at trial established that the person killed during the accident was Olivera Atleski. Numerous witnesses described and identified Atleski as the person who was killed in the red Baretta on the day of the accident, including, for example, police officer Richard Sewell, who testified that he "observed one female inside later found to be Olivera Atleski in the vehicle." Police officer Larry Schultz also identified the red Baretta as belonging to Atleski and testified that when he approached Atleski's vehicle after the accident, he observed "no obvious signs of life." Moreover, during the preliminary examination testimony of William Hauser, a witness to the accident, which was read into the record at trial, the parties stipulated that the driver of the red car to whom Hauser was referring was the deceased victim, Olivera Atleski. Based on this evidence, we conclude that the prosecutor established that Olivera Atleski was the person who was killed in the accident.

Defendant argues that the trial court should have granted his motion to bifurcate the trial. We disagree. The trial court's decision denying a bifurcated trial is reviewed for an abuse of discretion. *People v Furman*, 158 Mich App 302, 320; 404 NW2d 246 (1987). "[A]n abuse of discretion exists when an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling." *Gadomski, supra* at 33.

In *People v Donaldson*, 65 Mich App 588, 590; 237 NW2d 570 (1975), this Court concluded that two factors should be considered in determining whether a bifurcated trial should be granted: (1) whether the defendant has a meritorious defense, and (2) whether a substantial claim of insanity exists that is related to the incident. The trial court suggested that "where an insanity defense is alleged together with a defense on the merits, the trial should be bifurcated, because substantial prejudice may result from the simultaneous trial on a plea of insanity and not guilty." *Id*. This Court concluded that the trial court did not abuse its discretion in denying the motion to bifurcate because, "[c]onsidering the probable expenditure of great additional time and resources, defendant has not shown that such an unusual step is necessary or warranted in this case." *Id*.

In *People v Meatte*, 98 Mich App 74, 75, 78; 296 NW2d 190 (1980), the defendant, who was charged with second-degree murder, requested a bifurcated trial with two juries because he wanted to present defenses based on insanity and self-defense. This Court concluded that the trial court did not abuse its discretion in refusing the defendant's request to try each defense to a separate jury. *Id*. at 80. In affirming the trial court's decision, this Court stated:

> The right of a defendant to raise alternative defenses does not imply a concomitant right to sketch each defense on the clean slate of a naï ve jury. The prejudice that arises in the presentation of truly inconsistent defenses before a single jury stems not from the single jury procedure but from the presentation of a defense that is rendered less credible by the defendant's choice to present a second version of the facts, i.e., alibi together with insanity or coercion. If more than one defense is credible, neither is likely

> to be hurt by the assertion of the other. . . . It is therefore not clear that a claim of insanity necessarily negates a defendant's claim [of self-defense]. [*Id.* at 79-80, citation omitted.]

In *Furman, supra*, the defendant, who was charged with first-degree murder, argued that the trial court had abused its discretion in denying his motion to bifurcate his trial because "the demands of due process and a fair trial should have resulted in a favorable ruling since both of the defense theories, namely, a reasonable doubt and legal insanity, were substantial." The trial court denied the defendant's motion for the reason that the "defendant would not suffer undue prejudice by presenting the defense of insanity before the same jury which would determine his guilt or innocence." *Id.* This Court found that defendant had not been prejudiced by presenting the inconsistent defenses to a single jury and that the trial court had not abused its discretion in denying defendant's motion. *Id.* at 320-321

In the present case, it appears from defendant's argument that he is stating that his meritorious defense is his claim of insanity. However, based on the above-cited cases, the meritorious defense is separate and distinct from the defense of insanity. See, e.g., *Furman, supra* at 320 (the defendant wanted to present the defense of insanity as well as the defense that a reasonable doubt existed regarding whether the defendant was the perpetrator of the crime); *Meatte, supra* at 78 (the defendant wanted to present defenses based on insanity and self-defense). Thus, as correctly stated by the prosecutor at the motion hearing below, defendant has not presented any meritorious defense (e.g., that he was not driving). Because "defendant has not shown that such an unusual step is necessary or warranted in this case," *Donaldson, supra* at 590, the trial court did not abuse its discretion in denying defendant's motion to bifurcate the trial, *Furman, supra*.

We affirm.

/s/ Michael R. Smolenski
/s/ Jane E. Markey
/s/ Peter D. O'Connell

[1] Although defendant suggested below and again on appeal that the prosecutor has a duty to produce rebuttal evidence beyond a reasonable doubt that defendant was sane at the time of the offense once defendant has sustained his burden of proving insanity by a preponderance of the evidence, this is not the case. Before the 1994 amendment to the insanity statute, MCL 768.21a; MSA 28.1044(1), once "a defendant introduced evidence of insanity, the prosecution was required under a common-law standard to prove his sanity beyond a reasonable doubt." *McRunels, supra* at 175-176. However, the 1994 amendment "placed the burden of proof on a defendant to prove his insanity by a preponderance of the evidence." *Id.* at 176. The defendant's burden has increased, and the prosecutor's burden has lessened. *Id.* at 180.

[2] *Miranda v Arizona*, 384 US 436, 444; 86 S Ct 1602; 16 L Ed 2d 694 (1966).