

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

QUINESTER LYONS,

Defendant-Appellee.

UNPUBLISHED

May 25, 2001

No. 216225

Wayne Circuit Court

Criminal Division

LC No. 98-009513

Before: Markey, P.J., and Jansen and Zahra, JJ.

PER CURIAM.

The prosecutor appeals as of right from a circuit court order granting defendant's motion to quash the information. We remand for further proceedings.

This case arises from the 1987 murder of Christopher Clark and disappearance of Antoinette Bates. Defendant was bound over on two counts of first-degree premeditated murder, MCL 750.316; MSA 28.548, two counts of felony murder, MCL 750.316; MSA 28.548, two counts of extortion, MCL 750.213; MSA 28.410, and the common law offense of accessory after the fact to murder.¹ On appeal, the prosecutor only contests the dismissal of the charge of accessory after the fact.²

This Court reviews a trial court's decision to grant or deny a motion to quash charges de novo to determine if the district court abused its discretion in binding the defendant over for trial. *People v Jenkins*, 244 Mich App 1, 14; ___ NW2d ___ (2000). A district court must bind a defendant over for trial when the prosecutor presents competent evidence constituting probable cause to believe that a felony was committed and the defendant committed the offense. MCL

¹ See MCL 750.505; MSA 28.773.

² While the prosecutor's question presented on appeal generally challenges the circuit court's decision to grant defendant's motion to quash, the prosecutor only presents argument related to the court's decision to quash the accessory charge. "An appellant may not merely announce his position and leave it to this Court to discover and rationalize the basis for his claims." *People v Kelly*, 231 Mich App 627, 640-641; 588 NW2d 480 (1998). Moreover, during oral argument in this case, the prosecutor admitted that only the lower court's decision to quash the accessory charge is properly presented on appeal. We therefore limit our review accordingly.

766.13; MSA 28.931; MCR 6.110(E); *Jenkins, supra*. A district court's finding of probable cause will not be disturbed unless the determination is wholly unjustified by the record. *Id.* To bind a defendant over for trial, there must be evidence on each element of the crime charged, or evidence from which those elements may be inferred. *People v Doss*, 406 Mich 90, 101; 276 NW2d 9 (1979), quoting *People v Oster*, 67 Mich App 490, 495; 241 NW2d 260 (1976). An accessory after the fact is one who, with knowledge of the other's guilt, renders assistance to a felon in the effort to hinder his detection, arrest, trial or punishment. *People v Lucas*, 402 Mich 302, 305; 262 NW2d 662 (1978); *People v Perry*, 218 Mich App 520, 534; 554 NW2d 362 (1996).

Evidence presented at defendant's preliminary examination established that Clark's body was found in the trunk of a burning car. Bates was Clark's girlfriend and has not been seen since soon after Clark's murder. Bates is presumed by the prosecutor to be dead, though her body has never been found. Evidence suggested Clark and Bates were killed by Bates' uncles, Leroy Lyons and Preston Lyons,³ after Bates stole some of their drug money. Defendant is Bates' aunt. Evidence suggested defendant was present during some of the events leading up to Clark's murder and Bates' disappearance. Testimony at the preliminary hearing indicated defendant convinced Bates' mother to leave Bates at Leroy Lyons' home and travel out of town with defendant soon after Clark's murder. There was also testimony that Bates' family members made it known they would go to the police if they discovered Leroy or Preston Lyons murdered Bates. The prosecutor alleged that defendant sought to protect Leroy and Preston by telling family members that Leroy sent Bates out of town on a bus or plane. Also, defendant allegedly told family members she saw Bates at a local festival. Witnesses testified generally that defendant had urged relatives not to contact the police for fear that family members would get into trouble.

It is not clear from the record whether defendant took action that could be said to satisfy the elements of accessory after the fact within six years of her indictment of that offense. MCL 767.24; MSA 28.964. Defendant did not challenge the charge on the basis of the statute of limitations until after the preliminary examination. Consequently, we remand this case for further development of the record with respect to the accessory after the fact charge.

Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Jane E. Markey

/s/ Kathleen Jansen

/s/ Brian K. Zahra

³ This Court recently affirmed both men's first-degree murder convictions in connection with these incidents. See *People v Leroy Lyons*, unpublished opinion per curiam of the Court of Appeals, issued 3/27/01 (Docket No. 222430) and *People v Preston Lyons*, unpublished opinion per curiam of the Court of Appeals, issued 3/27/01 (Docket No. 220549).