STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED November 17, 2016
v	No. 328155 Muskegon Circuit Court
TIMOTHY RAY CRAMPTON, Defendant-Appellant.	LC No. 14-065730-FH

Before: SHAPIRO, P.J., and HOEKSTRA and SERVITTO, JJ.

PER CURIAM.

Defendant, Timothy Ray Crampton, appeals as of right his jury trial convictions of two counts of assaulting, resisting, or obstructing a police officer, MCL 750.81d(1). The trial court sentenced defendant, as a habitual fourth offender, MCL 769.12, to concurrent prison terms of thirteen months to fifteen years. We affirm.

On appeal, defendant first claims that his convictions must be reversed because MCL 750.81d(1) is unconstitutionally vague. We review defendant's unpreserved claim for plain error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Under MCL 750.81d(1), "an individual who assaults, batters, wounds, resists, obstructs, opposes, or endangers a person who the individual knows or has reason to know is performing his or her duties is guilty of a felony . . . ." According to defendant, the word "oppose" is too vague for a person to understand what conduct MCL 750.81d(1) prohibits, is susceptible to arbitrary enforcement, and prohibits thoughts and ideas protected by the First Amendment.

During the pendency of this appeal, this Court published a decision rejecting a nearly identical challenge to MCL 750.81d(1) on vagueness grounds. See *People v Morris*, ___Mich App___; ___NW2d___(2016) (Docket No. 323762). This Court in *Morris* concluded that the word "oppose" in MCL 750.81d clearly referenced an individual using some form of force to prevent a police officer or other named official from performing an official and lawful duty, and held that MCL 750.81d was neither vague nor overbroad. *Morris*, ___Mich App at ___; slip op at 7-8. The precedent set in *Morris* is binding on this Court, and defendant's claim therefore fails. MCR 7.215(J)(1).

Defendant also argues that there was insufficient evidence to support a conviction of resisting and obstructing a police officer. An appeal based on the sufficiency of the evidence is

reviewed de novo. *People v Henderson*, 306 Mich App 1, 8; 854 NW2d 234 (2014). When considering the sufficiency of the evidence, the Court views the evidence in the light most favorable to the prosecution and determines whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. *Id*. at 9.

To convict a defendant of resisting or obstructing a police officer under MCL 750.81d(1), the prosecution must show that (1) "the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered a police officer;" (2) "the defendant knew or had reason to know that the person that the defendant assaulted, battered, wounded, resisted, obstructed, opposed, or endangered was a police officer performing his or her duties;" and (3) "the officers' actions were lawful." *People v Quinn*, 305 Mich App 484, 491; 853 NW2d 383 (2014); see MCL 750.81d(1). The term "obstruct" for purposes of the resisting and obstructing statute includes the use or threatened use of physical interference or force or a knowing failure to comply with a command. MCL 750.81d(7)(a).[1]

In this case, there was sufficient evidence to enable a rational trier of fact to find the first element for each count, that defendant resisted or obstructed Deputy Tom Schmidt and Deputy Austin Aamodt. Testimony at trial established that defendant failed to comply with Deputy Schmidt's command that defendant stop approaching him and get down on the ground, and that defendant subsequently said he would kick Deputy Aamodt and then did kick his foot at Deputy Aamodt's groin. Viewed in the light most favorable to the prosecution, *Henderson*, 306 Mich App at 9, this evidence was sufficient for the jury to find that defendant obstructed Deputy Schmidt and assaulted Deputy Aamodt. There was also sufficient evidence for the jury to find the second element, that defendant knew or had reason to know that Deputy Schmidt and Deputy Aamodt were law enforcement officers performing their duties. Testimony at trial supported that both deputies were wearing their uniforms and that they announced multiple times that they were law enforcement officers. Moreover, defendant testified that he recognized them as law enforcement officers. This evidence was sufficient for the jury to find that defendant knew or had reason to know that the officers were law enforcement officers performing their duties. *Id*.

There was also sufficient evidence for the jury to find the third element, that the officers' actions were lawful. "[F]or Fourth Amendment purposes, an arrest warrant founded on probable cause implicitly carries with it the limited authority to enter a dwelling in which the suspect lives when there is reason to believe the suspect is within." *Payton v New York*, 445 US 573, 603; 100 S Ct 1371; 63 L Ed 2d 639 (1980). In this case, testimony at trial established that the officers possessed a felony arrest warrant for defendant's son, whose listed address was the house that the officers entered to search when they encountered defendant. In addition, defendant's son was seen entering the house after being told to stop, and then the officers loudly knocked on the door and announced their presence before entering the house. Thus, the officers' actions in entering

[1] The statutory language indicates that the term "obstruct" includes "knowing failure to comply with a *lawful* command." MCL 750.81d(7)(a) (emphasis added). However, the lawfulness of the officer's actions will be separately analyzed as part as the third element of the crime. See *Quinn*, 305 Mich App at 491.

the house were lawful, because they could properly enter the house to arrest defendant's son. *Id*. Defendant's subjective belief regarding the lawfulness of the officers' actions has no bearing on the sufficiency of the evidence supporting his conviction.

Affirmed.

/s/ Douglas B. Shapiro
/s/ Joel P. Hoekstra
/s/ Deborah A. Servitto