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STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WESLEY CHESTER BASTION,

Defendant-Appellant.

UNPUBLISHED

April 29, 2021

No. 351728

Ottawa Circuit Court

LC No. 18-042539-FH

Before: BECKERING, P.J., and SAWYER and SHAPIRO, JJ.

SHAPIRO, J. (*concurring*).

I concur fully in the majority opinion. I write only to respond to the dissent’s suggestion that the ruling in this case defines “a right to resist an arrest when the defendant is unsure whether it is lawful or not.” The dissent reads the majority far too broadly. This case was not simply a issue of someone questioning whether their arrest was lawful. Rather, it arises out of the prosecution’s breach of a written agreement that defendant would not be arrested, but would instead be permitted to surrender himself and that the prosecution would notify his counsel when the dismissed marijuana charge was refiled so that the necessary arrangements could be made. This is not a typical situation and our opinion does not create the right that the dissent suggests, nor does it “encourag[e] resistance.” We reverse because it is inconsistent with fundamental justice to bar defendant from introducing evidence of the prosecution’s promise and breach that directly gave rise to the incident.

/s/ Douglas B. Shapiro