

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TYLER THOMAS DELONG,

Defendant-Appellant.

---

UNPUBLISHED

February 11, 2021

No. 353687

Chippewa Circuit Court

LC No. 20-004047-FC

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

PER CURIAM.

In this interlocutory appeal, defendant appeals the circuit court's order denying his motion to quash the charges of attempted murder, MCL 750.91, assault with intent to commit murder, MCL 750.83, first-degree criminal sexual conduct (CSC-I), MCL 750.520b(1)(f), and unlawful imprisonment, MCL 750.349b, on which he was bound over from the district court. We affirm.

**I. FACTUAL BACKGROUND**

On August 2, 2019, at approximately 3:20 a.m., officers responded to a call for a reported assault. The responding officer found Gavin Schroeder bleeding heavily from his face with MC steadying him. MC explained that defendant, who had been staying with her for a few days, had been acting strangely and would not let her leave her house. She described that when she texted Schroeder for help, defendant became angry, raped her, and began beating her. She explained that Schroeder broke down the door and pepper sprayed defendant, and that defendant attacked him with a knife, stabbed him, and strangled him. Schroeder and MC were taken to the hospital for treatment. Officers made contact with defendant, who was waiting outside the residence. Defendant explained in detail that he sexually assaulted MC, beat her, and fought Schroeder. He explained that he aimed for Schroeder's intestines and kidneys with the knife, and said that his only thought at the time was to kill Schroeder.

At the preliminary examination, the prosecutor entered into evidence without objection Schroeder's and MC's medical records from the hospital, a CT scan of Schroeder, and body cam footage of the officer's contact with Schroeder, MC, and defendant. The hospital records indicated that Schroeder had been assaulted by a male assailant, that he had been stabbed and suffered blows

to the head, neck, and face, and that MC had been sexually and physically assaulted by a male assailant known to her. The CT scan showed that Schroeder had a broken knife blade embedded in his left sinus. Neither Schroeder nor MC testified at the preliminary exam, but the responding officer testified. The district court found that the evidence and testimony established probable cause to bind defendant over on charges of attempted murder, assault with intent to commit murder, CSC-I, and unlawful imprisonment. However, the court found that without testimony from MC, it did not have enough evidence to bind defendant over on charges of kidnapping, assault with intent to cause great bodily harm less than murder, and assault with a dangerous weapon.

In the circuit court, defendant moved to quash the bindover on the ground that the prosecutor had failed to satisfy the *corpus delicti* rule. The circuit court denied defendant's motion, and this appeal followed.

## II. ANALYSIS

Defendant argues that the district court abused its discretion by binding defendant over for trial because the prosecutor did not satisfy the *corpus delicti* rule. We disagree.

We review a lower court's decision regarding the *corpus delicti* requirement for an abuse of discretion. *People v Burns*, 250 Mich App 436, 438; 647 NW2d 515 (2002). "An abuse of discretion occurs when the trial court's decision falls outside the range of principled outcomes." *People v Olney*, 327 Mich App 319, 325; 933 NW2d 744 (2019). We also review for abuse of discretion a district court's decision to bind a defendant over to the circuit court for trial. *Id.*

"The corpus delicti rule is designed to prevent the use of a defendant's confession to convict him of a crime that did not occur." *People v Konrad*, 449 Mich 263, 269; 536 NW2d 517 (1995). Under the rule, a defendant's confession may only be admitted into evidence "when the prosecutor presents direct or circumstantial evidence, independent of the confession, establishing (1) the occurrence of the specific injury and (2) some criminal agency as the source of the injury." *People v Cotton*, 191 Mich App 377, 394; 478 NW2d 681 (1991). The *corpus delicti* rule must be shown by a preponderance of the evidence. *Burns*, 250 Mich App at 438. "Once this showing is made, a defendant's confession may be used to establish identity, intent, or aggravating circumstances." *Cotton*, 191 Mich App at 394.

Defendant first argues that the prosecution did not satisfy the *corpus delicti* rule because it presented only hearsay evidence. We disagree. The only case cited by defendant in support of his argument that hearsay evidence cannot be used to establish the corpus delicti is an unpublished opinion of this Court, *People v Bigelow* (No. 306435, issued 3/19/2013). Not only is *Bigelow* not binding precedent, MCR 7.215(C)(1), it also fails to support defendant's argument. *Bigelow* recited the facts of that case, including that the prosecutor had presented eyewitness testimony used to establish the corpus delicti. Nothing in the opinion suggests that hearsay evidence, if otherwise admissible, cannot be used as well to establish the corpus delicti.<sup>1</sup> Although this Court's

---

<sup>1</sup> In fact, while not entirely clear, the facts stated in the opinion would seem to suggest that some hearsay evidence was used, namely the medical examiner's report. *Slip op* at 2.

own research did not discover a case that addressed the question of the use of hearsay to establish the corpus delicti at a preliminary examination, our opinion in *Olney*, 327 Mich App at 329-331, recognized that hearsay evidence, if admissible, can be the basis to establish probable cause at a preliminary examination.<sup>2</sup> We see no reason to conclude that, if admissible hearsay can be used to establish probable cause at the preliminary examination, admissible hearsay cannot be used to establish the corpus delicti at a preliminary examination.

Thus, the relevant question is whether the evidence used to establish the corpus delicti was, in fact, hearsay and, if so, was it nevertheless admissible. But defendant cites no authority in support of his argument that the evidence was, in fact, inadmissible hearsay. Indeed, the medical records, Schroeder's CT scan, and the body cam recordings were all admitted into evidence without objection. "An appellant may not merely announce a position then leave it to this Court to discover and rationalize the basis for the appellant's claims; nor may an appellant give an issue only cursory treatment with little or no citation of authority." *Cheesman v Williams*, 311 Mich App 147, 161; 874 NW2d 385 (2015). In this case, the medical records and body cam recordings provided sufficient evidence to establish injury and criminal agency without the in-court testimony of Schroeder or MC.

This admissible evidence established specific injuries and criminal agency as the source of the injuries independent of defendant's confession to the officers. The hospital records alone established that Schroeder and MC sustained specific injuries, including MC's sexual assault and Schroeder's neck injury and stab wounds to the face and arm. The narrative section of the hospital record established that there was a criminal source of the injuries, because it identified that a male assailant, known to MC, was the perpetrator of both attacks. The body cam recordings also established that MC and Schroeder had sustained injuries from defendant's actions because MC described in detail how defendant had beaten her, sexually assaulted her, stopped her from leaving, and attacked Schroeder. This allowed the prosecutor to present evidence of defendant's confession to establish his intent to kill Schroeder, which in turn allowed the district court to elevate the charges to attempted murder and assault with intent to commit murder. *Cotton*, 191 Mich App at 394.

Defendant also argues that the district court's decision to not bind him over on some charges contradicted its decision to bind him over on others. We disagree. The district court outlined the evidence that supported its decision to bind defendant over on certain charges. The medical records established that Schroeder suffered a severe injury as the result of an assault, which allowed the prosecutor to introduce defendant's confession to establish his intent and elevate the charges to attempted murder and assault with intent to murder. *Cotton*, 191 Mich App at 394. MC's hospital records and her account on the body cam recording established that defendant sexually assaulted her and that defendant would not let her leave her house. Therefore, regardless of the district court's decision regarding the other charges, the court did not abuse its discretion by

---

<sup>2</sup> *Olney* involved hearsay evidence of a domestic violence victim admitted under MCL 768.27c in lieu of the victim's testifying at the preliminary examination.

binding defendant over for trial on charges of attempted murder, assault with intent to murder, CSC-I, and unlawful imprisonment.

Affirmed.

/s/ Jane M. Beckering

/s/ David H. Sawyer

/s/ Douglas B. Shapiro