STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED March 13, 2012
v	No. 301335 Wayne Circuit Court
ELIZABETH RENEE RANDLE, Defendant-Appellant.	LC No. 10-005418-FH

Before: O'CONNELL, P.J., and SAWYER and TALBOT, JJ.

PER CURIAM.

Elizabeth Renee Randle appeals as of right her jury trial conviction of arson of a dwelling house.[1] Randle was sentenced to 21 months to 20 years' imprisonment with 162 days credit. We affirm.

This case arises out of a fire that erupted in the closet of the apartment that Randle shared with her then-boyfriend, Steven Hill, which occurred shortly after Randle left the residence. Randle does not assert that the jury was improperly instructed. Rather, she argues that the comments made by the trial court after it was informed that the jury was deadlocked violated her right to a fair trial because they coerced a guilty verdict. We disagree. As this issue is unpreserved, it will be reviewed for plain error affecting Randle's substantial rights.[2] Reversal is only warranted when the 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[.]"[3]

"Claims of coerced verdicts are reviewed case by case, and all the facts and circumstances, including the particular language used by the trial court, must be considered."[4]

[1] MCL 750.72.

[2] *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

[3] *Id*. (internal quotations omitted).

[4] *People v Vettese*, 195 Mich App 235, 244; 489 NW2d 514 (1992).

"[A] trial judge has wide discretion and power in matters of trial conduct."[5] While the trial judge may "urge and assist the jury in reaching a verdict,"[6] he may not use "language designed to coerce the jury to reach a verdict, or to cause members of the jury to believe that the verdict need not be the result of their own convictions."[7]

The record does not support that the jury's verdict was the result of coercion.[8] After deliberating for approximately an hour and a half, the jury advised the court that it was deadlocked and inquired of its next steps. The judge responded that the time it had been deliberating was "inadequate" to deem the jury deadlocked. The judge then read the relevant deadlocked jury instruction[9] almost verbatim. The judge advised that he was scheduled to attend a judicial conference over the next two days (Thursday and Friday) and then planned to leave for three weeks. He further advised that he would, however, leave the conference to be present in court on Friday and ordered that the jury report on Friday at 8:00 a.m., so that they would have "as much time as humanly possible to deliberate." When a juror later asked what would happen if a verdict was not reached on Friday, the judge replied in part, "The same thing I told you today. I will be here."

Randle contends that the court's response to what would happen if a verdict was not reached on Friday implied that if a verdict was not reached, the matter would be "continued for three weeks until the judge returned." Taking the court's comment in context, we find that a reasonable juror could conclude that if a verdict was not reached on Friday, then the judge would again make adjustments to his schedule or make other arrangements so that deliberations could continue. While Randle also asserts that the judge improperly advised that he would not grant a mistrial after only an hour and a half, the judge did not indicate that he would not grant a mistrial at all.

We find that the record does not suggest that the jury reached a verdict for the sake of expediency, but rather that the instruction as read by the court exacted its intended purpose: to refocus the jury's deliberations so that it could come to a conclusion, which it did on Friday, after an additional hour and a half of deliberations. Moreover, the jury was instructed that they should not "give up [their] honest beliefs about the weight or effect of the evidence only because of what [their] fellow jurors think or only for the sake of reaching agreement."[10] Because "jurors

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[5] *People v Collier*, 168 Mich App 687, 698; 425 NW2d 118 (1988).

[6] *People v Coles*, 28 Mich App 300, 303; 184 NW2d 214 (1970).

[7] *Id.* at 304. (citations omitted).

[8] *Id.*

[9] CJI2d 3.12.

[10] CJI2d 3.12.

are presumed to follow their instructions," reversal is not warranted.[11]

Affirmed.

/s/ Peter D. O'Connell
/s/ David H. Sawyer
/s/ Michael J. Talbot

[11] *People v Unger*, 278 Mich App 210, 237; 749 NW2d 272 (2008).