STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED September 16, 2008
v	Nos. 277661, 277663, 277664 Calhoun Circuit Court
GENAIL QUINCY POSTLEY, JR., Defendant-Appellant.	LC Nos. 2005-003140-FC, 2005-003191-FC, & 2005-002906-FC

Before: Donofrio, P.J., and Murphy and Fitzgerald, JJ.

PER CURIAM.

In these consolidated cases, defendant appeals as of right his 27 convictions following a jury trial. Defendant was charged with several crimes arising from the events of May 9, 2005, during which he fatally shot one Battle Creek police detective and wounded another. Defendant then carjacked two vehicles to effect his flight from the police. We affirm.

Defendant first argues on appeal that the trial court erred in granting the prosecution's motion for joinder of the charges stemming from the shootings and the two carjackings. We disagree. We review a trial court's ruling on a motion to join or sever charges for an abuse of discretion. *People v Girard*, 269 Mich App 15, 17; 709 NW2d 229 (2005). Where a trial court selects a reasonable and principled outcome from a spectrum of possible principled outcomes, deference is given and the court's decision does not constitute an abuse of discretion. *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006); *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

"Two or more informations or indictments against a single defendant may be consolidated for a single trial." MCR 6.120(A). "[T]he court may join offenses charged in two or more informations or indictments against a single defendant . . . when appropriate to promote fairness to the parties and a fair determination of the defendant's guilt or innocence of each offense." MCR 6.120(B). "Joinder is appropriate if the offenses are related." MCR 6.120(B)(1). And "offenses are related if they are based on (a) the same conduct or transaction, or (b) a series of connected acts, or (c) a series of acts constituting parts of a single scheme or plan." *Id.* Pursuant to MCR 6.120(C), a court must sever for separate trials offenses that are not related as set forth in subrule (B)(1), quoted above in the preceding sentence, where a defendant moves for severance. Our Supreme Court stated, by way of example, that "if a person were to

escape prison, steal an automobile and take hostages, all the offenses might be tried together as a series of connected acts." *People v Tobey*, 401 Mich 141, 152; 257 NW2d 537 (1977).

We find that the instant offenses were clearly related because they involved the same transaction, a series of connected acts, and acts constituting parts of a single scheme or plan under MCR 6.120(B)(1). Here, the detectives went to an apartment complex at approximately 4:00 p.m. Several minutes later, defendant shot one of the detectives with a shotgun and then removed that detective's holstered pistol. Moments later, when the other detective raced to the scene of the shooting to assist his partner, defendant fired a shotgun blast at that detective before retreating into an apartment. Defendant then jumped from the second-floor balcony of the apartment and ran from the apartment complex, discarding the shotgun and the fallen detective's holster, but keeping the detective's gun. After running approximately two blocks, defendant approached a stopped truck, pointed the pistol at the driver, and ordered the driver out of the truck. Between 4:15 and 4:30 p.m., defendant pulled the stolen truck up behind a black Ford Thunderbird as the couple in the vehicle pulled into the driveway of their residence, which was approximately two miles southeast of the apartment complex. Defendant parked the stolen truck in front of the driveway, approached the Thunderbird, pointed the pistol at the couple therein, ordered them out of the vehicle, and drove away in the Thunderbird.

The evidence adduced at trial clearly indicates that all of the instant offenses occurred within a 30-minute window and constituted parts of a single, continuous criminal episode. *Tobey, supra* at 152; *Girard, supra* at 17. And we note that defendant disarmed the first detective after shooting him and then used the detective's pistol to facilitate both carjackings; thus, evidence from the shootings was also relevant to the carjackings. *Id.* at 18. Ultimately, all of the charged offenses were properly joined, falling squarely under the plain language of MCR 6.120(B)(1), and we therefore conclude that the trial court did not abuse its discretion by granting the prosecution's motion for joinder.

Defendant also asserts on appeal that the trial court erroneously ordered his felony-firearm sentences to run consecutively to his sentences for possessing a short-barreled shotgun and carrying a concealed weapon (CCW). However, in amended judgments of sentence, the trial court corrected the error with respect to the CCW sentences by ordering that those sentences run concurrently to the felony-firearm sentences. And, as to the shotgun possession sentence, it was proper to run it consecutively to the accompanying felony-firearm sentence, given that the felony-firearm statute, MCL 750.227b, while excluding a CCW conviction from forming the predicate felony for purposes of felony-firearm, fails to make a similar exception for possession of a short-barreled shotgun, MCL 750.224b.

Affirmed.

/s/ Pat M. Donofrio
/s/ William B. Murphy
/s/ E. Thomas Fitzgerald