

# Court of Appeals, State of Michigan

## ORDER

People of MI v Neng Rou Zhang

Docket No. 339156

LC No. 17-001105-01-AR

Michael J. Talbot  
Presiding Judge

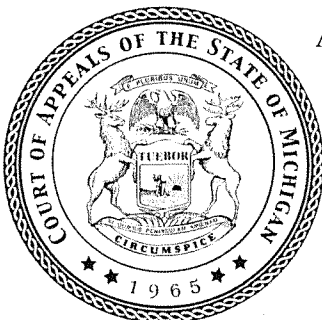
Kirsten Frank Kelly

Thomas C. Cameron  
Judges

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Pursuant to MCR 7.205(E)(2), the Court orders that the circuit court's June 29, 2017 order is REVERSED. Considering all the evidence, the district court clearly abused its discretion in dismissing Counts I-IV. *People v Grayer*, 235 Mich App 737, 739; 599 NW2d 527 (1999). Indeed, despite his wife's lack of memory, the evidence showed that defendant choked his wife with enough violence to render her motionless and in need of intubation. Photographs depict her neck red with deep gashes and her face almost entirely discolored. See *People v Gayheart*, 285 Mich App 202, 228; 776 NW2d 330 (2009), lv den 486 Mich 957 (2010) ("a finding of intent to kill was made more probable by the nature and extent of the injuries as depicted in the photographs."). Based on this, one may easily infer that defendant probably intended to kill his wife (or to commit the other charged offenses) when he assaulted her, especially considering the way he used the bungee cord and his actions after the arrest (i.e., calling for help, turning himself in, and making a confession). See *People v Taylor*, 422 Mich 554, 567-568; 375 NW2d 1 (1985) (citation omitted) (intent to kill may be shown by "the nature of the defendant's acts constituting the assault; the temper or disposition of mind with which they were apparently performed, whether the instrument and means used were naturally adapted to produce death, his conduct and declarations prior to, at the time, and after the assault, and all other circumstances calculated to throw light upon the intention with which the assault was made"); MCL 750.84(1)(b); MCL 750.82; see also *People v Brown*, 267 Mich App 141, 150; 703 NW2d 230 (2005) ("it is impossible to commit the offense of assault with intent to commit murder without first committing the offense of assault with intent to do great bodily harm less than murder"), and *People v Gould*, 241 Mich App 333, 342-343; 615 NW2d 794 (2000) (a prosecutor has discretion to "charge in a single information all offenses which do arise out of a single criminal transaction or occurrence.").

This order is to have immediate effect. MCR 7.215(F)(2). This Court retains no further jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

AUG 10 2017

Date

Chief Clerk