

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CAROL LYNN GILES,

Defendant-Appellant.

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UNPUBLISHED

August 22, 2000

No. 213401

Oakland Circuit Court

LC No. 98-158326-FC

Before: Fitzgerald, P.J., and Holbrook, Jr. and McDonald, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree premeditated murder, MCL 750.316; MSA 28.548, and was sentenced to life in prison without possibility of parole. She appeals as of right. We affirm.

This case arises from the death of Jesse Giles, a five-hundred pound invalid who had a history of medical problems including obesity, hypoglycemia, diabetes, hypertension, heart attack, stroke, and high blood pressure. Giles was injected with a mixture of insulin and a lethal dose of heroin. The heroin immediately converted into morphine upon entering Giles' body and he died of respiratory failure after acute morphine intoxication. Defendant testified at trial that she and her boyfriend came up with the idea to mix heroin with insulin and to inject it into Giles to kill him. She explained that she and Giles often fought and were not getting along, and that she thought killing him was the only way she could get out of the relationship. Defendant further testified that her boyfriend bought the heroin and told her how to mix it with the insulin. Defendant indicated that she mixed the heroin and insulin and injected Giles with it on September 28, 1997. Defendant admitted that she planned the murder two days beforehand, that she intended to kill Giles, that she knew it was wrong to kill, but that she did not think about "getting caught."

Defendant first contends that the trial court erred in admitting into evidence two photographs of Giles' body because the photographs were irrelevant. This Court reviews a trial court's admission of photographs for an abuse of discretion. *People v Ho*, 231 Mich App 178, 187; 585 NW2d 357 (1998).

Relevant evidence is “evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.” MRE 401. Photographic evidence is generally admissible if it is “substantially necessary or instructive to show material facts or conditions.” *People v Anderson*, 209 Mich App 527, 536; 531 NW2d 780 (1995). The two photographs show Giles’ body lying on the floor next to a bed. His arms are spread, knees bent and his shirt is pulled up, showing EKG leads on his chest. The photographs show no blunt trauma or outward physical harm.

The photographs were admitted to aid the jury in visualizing the events described by various witnesses and the circumstances of the killing itself. *People v Coddington*, 188 Mich App 584, 598-599; 470 NW2d 478 (1991). The photos do not depict any blood, trauma, or grisly detail. The photographs are merely standard Polaroid snapshots of the body, depicting nothing that “could lead the jury to abdicate its truth-finding function and convict on passion alone.” *Anderson, supra* at 536. We find no error in the trial court’s admission of the photographs into evidence.<sup>1</sup>

Defendant next asserts several instances of ineffective counsel. In reviewing a defendant's claim of ineffective assistance of counsel, this Court determines “(1) whether counsel’s performance was objectively unreasonable and (2) whether the defendant was prejudiced by counsel’s defective performance.” *People v Rockey*, 237 Mich App 74, 76; 601 NW2d 887 (1999). To establish a claim of ineffective assistance of counsel, a defendant must show that counsel’s performance was deficient and that counsel made an error so serious that counsel was not functioning as an attorney as guaranteed under the Sixth Amendment. *People v Lloyd*, 459 Mich 433, 445-446; 590 NW2d 738 (1999). To prevail, the defendant must overcome the presumption that the challenged action was sound trial strategy. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). In addition, the defendant must show that the claimed deficiency was prejudicial to him. *Lloyd, supra* at 450.

First, defendant asserts that she was denied the effective assistance of counsel because defense counsel failed to object to the admission of the photographs. Because we have concluded that there was no error in the admission of the photographs, defendant can demonstrate no prejudice as a result of counsel’s failure to object to admission of the photographs.

Defendant next contends she was denied the effective assistance of counsel because defense counsel failed to move for a *Walker*<sup>2</sup> hearing to suppress her confession to police. However, defendant does not articulate any factor at issue during the police interview that would suggest coercion or involuntariness. Rather, defendant’s argument rests on the mere possibility that some fact *might* have been revealed during a *Walker* hearing that could lead to the suppression of the statement. Consequently, this Court has “no basis to conclude that any motion by defendant’s counsel to suppress the statement would have had merit.” *People v Warren*, 228 Mich App 336, 356; 578 NW2d 692 (1998).

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<sup>1</sup> Further, in light of defendant’s in-court admission to every element of the crime, as well as her out-of-court confession to police, the photographs played little or no role in defendant’s conviction.

<sup>2</sup> *People v Walker (On Rehearing)*, 374 Mich 331, 338; 132 NW2d 87 (1965).

Finally, defendant contends she was denied the effective assistance of counsel because defense counsel failed to introduce expert testimony regarding battered spouse syndrome. The admissibility of syndrome evidence is “limited to a description of the uniqueness of a specific behavior brought out at trial.” *People v Christel*, 449 Mich 578, 591; 537 NW2d 194 (1995). Accordingly, there must be “necessary factual underpinnings for the admission of expert testimony” at trial. *Id.* at 597. Expert testimony on battered spouse syndrome is generally offered by a defendant in a homicide case when the defendant is claiming self-defense. *Id.* at 589. Homicide “is justified under the theory of self-defense if the defendant ‘honestly and reasonably believes that his life is in imminent danger or that there is a threat of serious bodily harm.’” *People v Wilson*, 194 Mich App 599, 602; 487 NW2d 822 (1992).

While defendant testified that she had physical fights with Giles in the past, the record does not establish that defendant honestly or reasonably believed there was imminent danger of death or great bodily harm to establish a claim of self-defense. There was nothing unique about defendant’s specific behavior that was brought at trial that necessitated expert testimony. Nothing in defendant’s testimony suggested that she killed Giles because she feared for her life or that defendant’s state of mind was so warped by systematic spousal abuse that she, even irrationally, feared some imminent harm by defendant. Indeed, on the day of the killing Giles planned to stay in bed all day and defendant had the opportunity to leave the house if she feared physical harm. Hence, on this record expert testimony regarding battered spouse syndrome would not have been relevant because the facts do not suggest that defendant killed Giles in self-defense.<sup>3</sup> Moreover, expert testimony was not required to “explain things not readily comprehensible to an average juror.” *Christel, supra* at 597. Therefore, testimony about the syndrome would not have been relevant even if offered by defense counsel.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Donald E. Holbrook, Jr.  
/s/ Gary R. McDonald

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<sup>3</sup> Indeed, defendant admitted at trial that she deliberated about how to kill Giles days before she finally did so.