

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CHARLES TERRELL JONES,

Defendant-Appellee.

UNPUBLISHED  
November 10, 2005

No. 254939  
Wayne Circuit Court  
LC No. 04-001085-02

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

BERNARD CHAUNCEY MURPHY,

Defendant-Appellee.

No. 254964  
Wayne Circuit Court  
LC No. 04-001085-02

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Before: Gage, P.J., and Hoekstra, and Murray, JJ.

HOEKSTRA, J., (*concurring in part and dissenting in part*).

I respectfully dissent from the majority's conclusion that "the circuit court correctly identified error in the district court's decision to bind [defendant Charles Terrell] Jones over for trial." *Ante*, slip op at 3.

A defendant must be bound over for trial on the prosecutor's information if the evidence presented at the preliminary examination is sufficient to establish both "that a felony has been committed and there is probable cause for charging the defendant therewith . . ." MCL 766.13. The prosecution need not, however, establish guilt beyond a reasonable doubt at the preliminary examination. *People v Hill*, 433 Mich 464, 469; 446 NW2d 140 (1989). To the contrary, where the evidence at the preliminary examination conflicts or raises reasonable doubt as to the defendant's guilt, the defendant should be bound over for resolution of the issue by the trier of fact. See *People v Cotton*, 191 Mich App 377, 384; 478 NW2d 681 (1991). In reviewing a district court's decision to bind a defendant over for trial, the circuit court may not substitute its judgment for that of the district court and may reverse only if it appears on the record that the district court abused its discretion. *People v Drake*, 246 Mich App 637, 639-640; 633 NW2d

469 (2001). “An abuse of discretion is found only where an unprejudiced person, considering the facts on which the court acted, would say there was no justification or excuse for the ruling.” *People v Orzame*, 224 Mich App 551, 557; 570 NW2d 118 (1997).

In this case, testimony at the preliminary examination showed that within minutes of an armed robbery involving multiple perpetrators, Jones was found to be one of four individuals occupying a black pickup truck identified by the victim and other circumstantial evidence as having been used in the crime. On the basis of this evidence, I conclude that although the victim could not identify Jones as having been directly involved in the robbery, his presence in the black pickup truck so shortly after the crime was sufficient to establish “probable cause for charging” him in this matter. MCL 766.13; see also *Orzame, supra* at 558. While Jones’ mere presence in the truck may be insufficient to itself establish his guilt of the charged offenses beyond a reasonable doubt, see *People v Norris*, 236 Mich App 411, 419-420; 600 NW2d 658 (1999), it must be remembered that a preliminary examination “‘is ordinarily a much less searching exploration into the merits of a case than a trial, simply because its function is the more limiting one of determining whether probable cause exists to hold the accused for trial.’” *Drake, supra* at 640, quoting *Barber v Page*, 390 US 719, 725; 88 S Ct 1318; 20 L Ed 2d 255 (1968). Indeed, probable cause to support a bindover requires only “a quantum of evidence ‘sufficient to cause a person of ordinary prudence and caution to conscientiously entertain a reasonable belief’ of the accused’s guilt.” *People v Yost*, 468 Mich 122, 126; 659 NW2d 604 (2003), quoting *People v Justice (After Remand)*, 454 Mich 334, 344; 562 NW2d 652 (1997). As such, the question whether Jones was merely present during the commission of the charged crimes, or perhaps played a more nefarious role, is a question to be resolved by the trier of fact at trial. *Cotton, supra*. Accordingly, I would hold that the district court did not abuse its discretion in binding Jones over for trial.

For these reasons and the reasons stated by the majority as well, the district court similarly did not abuse its discretion in binding over defendant Bernard Chauncey Murphy.

/s/ Joel P. Hoekstra