

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL A. ROCHON,

Defendant-Appellant.

UNPUBLISHED

October 18, 1996

No. 185604

LC No. 94-133962

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Before: McDonald, P.J., and White and P.J. Conlin,\* JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of larceny in a building, MCL 750.360; MSA 28.592, and subsequently pleaded guilty to habitual offender, second offense, MCL 769.10; MSA 28.1082. Defendant was sentenced to three years' probation, the first year to be served in the county jail. He appeals, challenging the trial court's admission of a prior conviction. We affirm.

Defendant argues that the trial court erred when it admitted evidence of his 1991 conviction in California for grand theft of personal property after previously barring its admission. We do not agree. At the beginning of the trial, defendant made a motion in limine to bar reference to his prior conviction. The court ruled in defendant's favor. The court reasoned that because the prior conviction was for a crime "extremely similar" to the one charged in this case and would affect whether defendant testified, reference to the conviction would be "substantially more prejudicial than probative." However, at trial, under cross-examination, defendant made the statement, "I do not steal." The court then allowed the prosecutor to impeach this testimony by asking defendant whether he had been convicted of grand theft in California in 1991, to which defendant responded affirmatively.

Defendant argues that the trial court abused its discretion in allowing the prosecutor to elicit from him the prior conviction testimony. The admission of prior convictions to generally impeach the credibility of a criminal defendant is governed by MRE 609. A prior conviction for a theft crime is admissible under MRE 609 only if the crime was punishable by imprisonment in excess of one year, the trial court determines that the evidence has significant probative value on the issue of credibility, and the court further determines that the probative value of the evidence outweighs its prejudicial effect. *People v Allen*, 429 Mich 558, 605-606; 420 NW2d 499 (1988). In the instant case, the trial court identified

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\* Circuit judge, sitting on the Court of Appeals by assignment.

and applied these MRE 609 factors at the beginning of trial when it ruled that the prior conviction was inadmissible to generally impeach defendant's credibility.

However, MRE 609 was not intended to apply where the evidence of a prior conviction is offered to rebut specific statements the defendant makes while testifying at trial, because the evidence is not then used as impeachment of the defendant's credibility for truthfulness or veracity in general, but rather for the narrow purpose of rebutting specific testimony given by the defendant. *People v Taylor*, 422 Mich 407, 414; 373 NW2d 579 (1985). Here, because defendant's prior conviction was admitted to impeach his specific testimony that he does not steal, the trial court did not abuse its discretion in allowing the prosecution to question defendant about the conviction. Further, we reject the argument that the prosecutor wrongly injected defendant's character and religion into the trial. Rather, defendant raised the subject.

Defendant also argues that MRE 609(b) requires the trial court to "articulate, on the record, the analysis of each factor," and that because the trial court did not articulate its reasons for allowing the prior conviction to be admitted after previously ruling it was inadmissible to generally impeach defendant's credibility, defendant's conviction should be reversed. This argument is without merit. MRE 609 does not apply to the admission of a prior conviction to impeach specific trial testimony. *Taylor, supra*. The court's statement that defendant's testimony opened the door to his impeachment was adequate.

Affirmed.

/s/ Helene N. White  
/s/ Gary R. McDonald  
/s/ Patrick J. Conlin