

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

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GEORGE ANDREW BILLSSEN,

Defendant-Appellant.

---

UNPUBLISHED

October 29, 1996

No. 174519

LC No. 93-65911-FC

Before: Holbrook, P.J., and Saad and Giovan,\* JJ.

PER CURIAM.

The jury convicted defendant of second-degree murder, MCL 750.317; MSA 28.549, and the court sentenced him to fifteen to thirty years' imprisonment. Defendant appeals; we affirm.

Defendant argues that the trial court erred in admitting evidence of a witness' prior inconsistent statement to a detective and the prosecutor. The witness characterized a statement that defendant made in a letter to him as an admission of guilt. Defendant first argues that there was an insufficient foundation for the admission of this evidence. MRE 613 sets forth the foundational requirements for admitting extrinsic evidence of a prior inconsistent statement. It requires that a witness be given a sufficient opportunity to admit, deny or explain a prior inconsistent statement and that the opposing party be permitted to interrogate the witness regarding the statement. MRE 613(b). Here, the witness was given a sufficient opportunity to address his prior statement when he was recalled to the stand during the presentation of defendant's case. This also afforded defendant a sufficient opportunity to interrogate the witness. *Westphal v American Honda*, 186 Mich App 68, 71; 463 NW2d 127 (1990). Accordingly, the trial court did not err in holding that the foundational requirements were met.

Defendant also argues that this statement was hearsay evidence and that it was improperly admitted under the guise that it was being used as a prior inconsistent statement to impeach the witness, as in *People v Stanaway*, 446 Mich 643; 521 NW2d 557 (1994). We disagree. Here, unlike the witness in *Stanaway*, testimony of the impeached witness had relevance apart from what he said about the disputed statement in defendant's letter. The witness was defendant's friend as well as a visitor at

---

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

defendant's home on the night of the decedent's death. He testified about everyone's behavior on that night, including the decedent's, as well as the decedent's apparent health on that night and defendant's treatment and disciplining of his children. Further, he testified about the propensity of defendant's children for violence, which was relevant to defendant's theory that his son inflicted the decedent's injuries. Moreover, the witness' prior characterization of defendant's statement was inconsistent with the interpretation of the statement that the witness gave at trial. It was offered to impeach the witness, not for the truth of the matter asserted, and was therefore not hearsay. MRE 801. Therefore, the trial court properly admitted the evidence.

Defendant also asserts that the trial court erred when it excluded evidence of a prosecution witness' prior convictions. We disagree. The trial court properly evaluated the age of the convictions and the degree to which they were indicative of veracity. MRE 609(a)(2). The witness' convictions of assault with intent to rob and of armed robbery were nine and thirteen years old, respectively. Further, the primary nature of these crimes was violence, not dishonesty. Accordingly, we find no abuse of discretion in the trial court's exclusion of this evidence. *People v McAlister*, 203 Mich App 495, 505; 513 NW2d 431 (1994).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Henry William Saad

I concur in result only.

/s/ William J. Giovan