

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RANCE ARTHUR PENNINGTON,

Defendant-Appellant.

UNPUBLISHED

January 14, 1997

No. 186593

LC No. 88-005230-FC

Before: Young, P.J., and Markey and D.A. Teeple,* JJ.

PER CURIAM.

Defendant appeals as of right from the trial court's order denying his motion for post-conviction relief, pursuant to MCR 6.501 *et seq.*, from his convictions of assault with intent to commit murder, MCL 750.83; MSA 28.278, and first-degree criminal sexual conduct, MCL 750.520b(f); MSA 28.788(2)(f), following a jury trial. He was sentenced to concurrent terms of forty to sixty years' imprisonment for each crime. We affirm.

Defendant entered a friend's apartment during the night and forcibly raped her, beat her until she became unconscious, sliced her repeatedly with a knife, stabbed her in the back, and threw her down a flight of stairs. Defendant asserted that he had no memory of the incident and pleaded insanity.

Defendant argues that the trial court erred in failing to inform the jury of the dispositional consequences of finding him not guilty by reason of insanity. Our Supreme Court has ruled, however, that such an instruction may not be given due to the size and complexity of the statutory scheme governing the disposition of legally insane defendants. *People v Goad*, 421 Mich 20, 32-37; 364 NW2d 584 (1984). The case cited by defendant for a contrary proposition, *Simmons v South Carolina*, 512 US 154; 114 S Ct 2187; 129 L Ed 2d 133 (1994), is inapplicable because it dealt with a jury deciding a defendant's punishment after conviction, not a defendant's guilt in committing a crime.

Defendant also claims that the trial court erred in refusing to permit him to play for the jury an audio tape recording of his interview with his expert witness, a psychiatrist who, in fact, testified at trial.

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

The trial court indicated that defendant could later introduce these tapes into evidence for the jury's consideration during deliberations, which defendant did not seek to do. The tapes at issue were two hours long and their exclusion did not affect the ability of the expert witness to testify regarding the bases of his opinion. Thus, the trial court did not abuse its discretion in ruling the tapes inadmissible at that time due to needless consumption of time. MRE 403; see also *People v Furman*, 158 Mich App 302, 326-327; 404 NW2d 246 (1987).

Finally, defendant asserts that the trial court erred in permitting the court-appointed clinical psychologist to testify regarding defendant's evasiveness during his interview with her, arguing that this resulted in her serving as a "human lie detector." Our examination of the record reveals, however, that this witness was identifying a basis for her expert opinion -- her evaluation of defendant's behavior. Such testimony is admissible. MRE 703; *People v Dobben*, 440 Mich 679, 695-697; 488 NW2d 726 (1992); see also *People v Caulley*, 197 Mich App 177, 194-195; 494 NW2d 853 (1992).

We therefore affirm the trial court's well-reasoned written decision and order.

Affirmed.

/s/ Robert P. Young
/s/ Jane E. Markey
/s/ Donald A. Teeple