

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONJUELL G. CHANEY,

Defendant-Appellant.

UNPUBLISHED

April 1, 1997

No. 170142

Oakland Circuit Court

LC No. 92-120581-FC

Before: Marilyn Kelly, P.J., and MacKenzie and J.R. Ernst,* JJ.

PER CURIAM.

A jury convicted defendant of conspiracy to commit armed robbery, MCL 750.157a; MSA 28.354(1); MCL 750.529; MSA 28.797, nine counts of armed robbery, MCL 750.529; MSA 28.797, and nine counts of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant then pleaded guilty to habitual offender second, MCL 769.10; MSA 28.1082. The trial court sentenced him to two years' imprisonment on the felony-firearm count and to thirty to sixty years for habitual offender second. He appeals as of right. We affirm.

Defendant first argues for reversal because the prosecutor revealed to the jury that the trial court found his confession to be voluntary. He relies on cases involving misinstruction of a jury as to the outcome and meaning of a *Walker*¹ hearing ruling and limiting a defendant's ability to fully explore the circumstances surrounding a confession. The court gave no such instruction in this case and allowed defendant to explore all aspects of the circumstances of his confession, which he did at length. *Crane v Kentucky*, 476 US 683, 691; 106 S Ct 2142; 90 L Ed 2d 636 (1986). Therefore, defendant's rights were not violated. Nothing indicates that the prosecutor's comments, which we caution would have been better made outside of the jury's presence, prejudiced defendant's case. *Id.*; *People v Skowronski*, 61 Mich App 71, 78 n 4; 232 NW2d 306 (1975).

Defendant also argues that the trial court abused its discretion when it allowed the prosecutor to cross-examine him through the use of notes he had exchanged with his counsel and that were inadvertently revealed to the prosecutor. Nothing indicates that defendant intended to waive his

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

attorney/client privilege. The disclosure appeared to have been entirely inadvertent. Consequently, the trial court erred in ruling that defendant waived the privilege. *Sterling v Keidan*, 162 Mich App 88, 93, 95-96, 98; 412 NW2d 255 (1987). Nonetheless, the ruling was harmless error, and therefore reversal is unwarranted. MCL 769.26; MSA 28.1096; *People v Robinson*, 386 Mich 551, 562; 194 NW2d 709 (1972). The notes addressed a minor point, and there was other substantial evidence impeaching defendant's credibility.

Affirmed.

/s/ Marilyn Kelly

/s/ Barbara B. MacKenzie

/s/ J. Richard Ernst

¹ *People v Walker (On Rehearing)*, 374 Mich 331; 132 NWW2d 87 (1965).