

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD TARINO DYSON,

Defendant-Appellant.

UNPUBLISHED

May 23, 1997

No. 182677

Kalamazoo Circuit Court

LC No. 94-000678-FC

Before: Murphy, P.J., and Markey and A.A. Monton*, JJ.

PER CURIAM.

Defendant was convicted of first-degree murder in violation of MCL 750.316; MSA 28.548. Defendant appeals as of right.

I

Defendant argues that the trial court denied him a fair trial by sitting as the fact-finder where the court had previously accepted former codefendant Rice's plea to a lesser charge and where the court was aware that Rice had passed a polygraph. We disagree.

Defendant failed to preserve this issue. An appellate court will review only those issues that were properly raised and preserved, *People v Stanaway*, 446 Mich 643, 694; 521 NW2d 557 (1994), and defendant's failure to object before the trial court waives the issue on appeal, *People v Furman*, 158 Mich App 302, 330; 404 NW2d 246 (1987).

Defendant asserts that the trial court was not impartial for two reasons: the court had previously accepted codefendant Rice's guilty plea, and the court was informed that Rice had passed a polygraph test. Defendant did not object on either basis at trial, however. In fact, at a pretrial motion hearing held immediately after the taking of Rice's plea and the placing of his polygraph test results on the record, defendant not only failed to object to the trial court hearing the case but also requested that it do so.

First, in *People v Cocuzza*, 413 Mich 78; 318 NW2d 465 (1982), the Michigan Supreme Court held that it was not error for a trial judge who had presided over a defendant's incomplete or aborted guilty plea proceeding to subsequently preside over that defendant's bench trial. The defendant's failure to object below had much to do with that decision:

With full knowledge of the trial judge's involvement in this matter, defendant, who was represented by counsel, elected to proceed with a bench trial before that judge. We will not reward the failure to move for disqualification . . . by sanctioning a reversal of defendant's conviction. [*Id.* at 83-84.]

Moreover, defense counsel himself eventually raised the issue that Rice had passed the polygraph when he asked Rice on cross-examination, "How do we know that [that you are not the one that shot and killed the victim]?" Rice responded, "I took a polygraph test and passed it." When the court rendered its decision, the court noted that it had not considered the reference to the polygraph. Accordingly, we find no error.

II

Defendant next argues that the trial court failed to make sufficient findings of fact. We disagree.

In actions tried on the facts without a jury, "the court shall find the facts specially, state separately its conclusions of law, and direct entry of the appropriate judgment." MCR 2.517(A)(1). "Brief, definite, and pertinent findings and conclusions on the contested matters are sufficient, without overelaboration of detail or particularization of facts." MCR 2.517(A)(2). Articulation is designed to aid appellate review. *People v Johnson (On Reh)*, 208 Mich App 137, 141; 526 NW2d 617 (1994). "Remand for additional articulation is unnecessary where it is manifest that the court was aware of the factual issues and resolved them, and it would not facilitate appellate review to require further explication of the path the court followed in reaching the result." *Id.* at 141-142.

Here, the trial court's path is clear, and we believe the court was not only aware of the factual issues but also resolved them. *Id.* The court set forth its findings in detail over the course of more than twenty-six transcript pages discussing the testimony of every important witness, weighing each witness's credibility, and identifying consistencies and inconsistencies in the testimony.

Defendant's argument focuses on the following comments made by the trial court:

The court also recognizes that for purposes of my decision, I am not in a posture where I am deciding whether Mr. Rice or Mr. Dyson is the one who did the killing. Since they were both there, I have to make the kind of analysis that I have just described, but it is only Mr. Dyson who is charged with the offense at this point.

. . . I do find, based upon all the evidence before me and my opportunity to reflect on it for this past week, that Alonzo Young died as a result of a gunshot wound inflicted by Ronald Dyson.

Defendant asserts that these comments imply that the court was influenced in its decision by the fact that defendant was the only one charged with the crime, which certainly would be an improper basis for the decision.

These comments standing alone might support defendant's argument. The implication that defendant raises is not credible, however, in light of the trial court's preceding twenty-six pages of detailed findings, including that defendant told at least two people that he wanted the victim killed and offered these individuals payment to accomplish that goal, that only hours before the killing defendant showed several people a nine-millimeter weapon that is consistent with the caliber of bullets that killed the victim, and that after the killing defendant told at least two people that he had shot and killed the victim. We find, therefore, that the court made sufficient factual findings to support its decision.

Affirmed.

/s/ William B. Murphy

/s/ Jane E. Markey

/s/ Anthony A. Monton