

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRY LEE SHUMAKER,

Defendant-Appellant.

UNPUBLISHED

June 24, 1997

No. 176450

Ottawa Circuit Court

LC No. 94-17608 FC

Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

In this appeal of right from his jury conviction for one count of second degree criminal sexual conduct, defendant contends that the prosecutor deprived him of a fair trial by repeatedly asking defendant, on cross-examination, whether in various particulars other witnesses, whose testimony defendant disputed, were lying. There was never any objection to this line of questioning.

When the same issue was presented to the trial court in a motion for new trial, the trial judge noted that defendant had dealt with the questions very well, and accordingly the trial judge could find no prejudice. Because of the lack of objection, the issue must be regarded as unpreserved, nonconstitutional error. Had defendant objected, he would be required to show unfair prejudice to obtain appellate relief on this issue. *People v Buckey*, 424 Mich 1, 17; 378 NW2d 432 (1985). However, as unpreserved, nonconstitutional error, defendant must show that the error was outcome determinative. *People v Grant*, 445 Mich 535, 553; 520 NW2d 1 (1994). Defendant, however, identifies no such significant prejudice, and accordingly no basis for appellate relief has been established.

Affirmed.

/s/ Hilda R. Gage

/s/ Maureen Pulte Reilly

/s/ Joel P. Hoekstra