STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD PAUL MAYVILLE,

Defendant-Appellant.

UNPUBLISHED
July 8, 1997

No. 190976
Recorder's Court
LC No. 94-013653 FH

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction for second degree criminal sexual conduct. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first contends the trial court erred in precluding him from introducing expert psychiatric testimony concerning a supposed divorce related syndrome, whereby one parent can suborn a small child to fabricate false claims of sexual abuse by the other parent. Here, however, defendant was not the victim's parent, he was never married to the victim's mother, and dissolution of defendant's relationship with the victim's mother was accordingly unaffected by child custody or property settlement issues as to which bargaining leverage in divorce proceedings connected with allegations of criminal sexual conduct might be relevant. The trial court properly concluded that there were no facts in evidence that, in the absence of such expert testimony, would be incomprehensible to a jury of average people, and therefore exclusion of such evidence was not an abuse of the trial court's discretion. *People v Christel*, 449 Mich 578, 592, 597; 537 NW2d 194 (1995).

Defendant's claim of improper prosecutorial closing argument is unpreserved; there was no objection at trial to the prosecutor's remarks. Although the trial court had granted a directed verdict of acquittal as to several of the charges, none of the evidence relating to those charges had been stricken, and the prosecutor therefore could properly comment on such evidence to the extent relevant to the remaining charge. If there was any error in this regard, it does not rise to a level warranting appellate relief in the absence of timely objection. *People v Bahoda*, 448 Mich

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

261; 531 NW2d 659 (1995).

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Donald A. Teeple