

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD KERRY MATHEWS,

Defendant-Appellant.

UNPUBLISHED

December 30, 1997

No. 194741

Ottawa Circuit Court

LC No. 95-019169 FH

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction of one count of first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2). Defendant contends that the trial court abused its discretion in excluding proffered photographic evidence that was intended to show that the minor victim in this case was biased against defendant and had a motive to bring false charges.

Trial courts possess necessarily broad discretion in ruling on the admissibility of evidence of witness bias. *People v Dye*, 356 Mich 271, 277; 96 NW2d 788 (1959). The trial court did not abuse its discretion in finding the proffered evidence of such tangential relevance as not to meet the threshold criteria for admissibility under MRE 402. Additionally, before a witness can be impeached by calling other witnesses to prove acts or declarations showing bias, the witness under attack must first have been asked about those facts and cross-examined thereon. *People v Harrell*, 54 Mich App 554, 561-562; 221 NW2d 411 (1974), aff'd 398 Mich 384; 247 NW2d 829 (1976). Since the victim was never cross-examined on this subject, the evidence was also inadmissible for this additional reason. Defendant has established no abuse of the trial court's discretion.

Affirmed.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck