STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

        Plaintiff-Appellee,

v

TODD L. BRENT,

        Defendant-Appellant.

UNPUBLISHED
December 30, 1997

No. 196734
Recorder's Court
LC No. 95-009772

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

MEMORANDUM.

Defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, and sentenced to an enhanced term of imprisonment of 7-1/2 to 15 years, reflecting defendant's status as an habitual fourth offender, MCL 769.12; MSA 28.1084. Defendant appeals as of right. We affirm.

Defendant argues that he was deprived of a fair and impartial trial by improper remarks made by the prosecutor during rebuttal argument. *People v Paquette*, 214 Mich App 336, 342; 543 NW2d 342 (1995). Defendant failed to object below to the prosecutor's remarks. Accordingly, appellate review is precluded unless an objection could not have cured the error or a failure to review the issue would result in a miscarriage of justice. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). After reviewing the pertinent portions of the record and evaluating the prosecutor's remarks in context, we conclude that there is no miscarriage of justice. Moreover, even had the remarks been improper, defendant was tried before the bench. Unlike a jury, a judge is presumed to possess an understanding of the law, which allows him to understand the difference between admissible and inadmissible evidence. *People v Wofford*, 196 Mich App 275, 282; 492 NW2d 747 (1992).

Defendant also argues that he received the ineffective assistance of trial counsel in light of counsel's failure to object to the remarks of the prosecutor. Defendant, having failed to demonstrate error on the part of his trial counsel or that the outcome of the proceeding was fundamentally unfair, has failed to demonstrate that his trial counsel was ineffective. *People v Messenger*, 221 Mich App 171, 181; 561 NW2d 463 (1997).

Affirmed.

/s/ Richard Allen Griffin
/s/ Stephen J. Markman
/s/ William C. Whitbeck