

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RALPH GROVER WEBSTER,

Defendant-Appellant.

UNPUBLISHED

January 27, 1998

No. 193365

Eaton Circuit Court

LC No. 95-000199-FH

Before: Gribbs, P.J., and Murphy and Gage, JJ.

PER CURIAM.

Defendant appeals by right from his jury trial conviction of resisting and obstructing a police officer in the discharge of a duty, MCL 750.479; MSA 28.747, and possession of marijuana, MCL 333.7403(2)(d); MSA 14.15(7403)(2)(d). Defendant was sentenced to one year in the county jail. We affirm.

Defendant first argues that he was denied his right to a fair trial by the trial court's comments that he maintains belittled defense counsel. During his opening statement, defense counsel explained to the jury that there were times when resisting and obstructing an arrest could be justified. Counsel then told the jury that such a principle applied in defendant's case, maintaining that "there was no reason for defendant to stop and talk to the police officer." After hearing this, the trial judge informed that jurors that he alone could instruct them on the law applicable to the case. After instructing the jury on the elements of resisting and obstructing, the trial judge concluded with the caveat, "the law as quoted by [defense counsel] was not accurate."

In reviewing defendant's claims, we note that the trial court is vested with the duty of "instructing the jury as to the law applicable to the case." MCL 768.29; MSA 28.1052. In so instructing the jury, the trial court is free to "comment on the evidence, the testimony and character of any witnesses, as in his opinion the interest of justice may require." *Id.* This is a broad grant of authority, and as we explained in *People v Collier*, 168 Mich App 687, 698; 425 NW2d 118 (1988), the trial judge is granted considerable latitude in conducting the affairs of his court. We must decide, in the instant case, whether the challenged comments were "of such a nature as to unduly influence the jury

and thereby deprive [defendant] his right to a fair trial.” *Id.* In the present matter, the trial court’s comments did not “pierce the veil of judicial impartiality” and were not otherwise improper. *Id.* Here, counsel attempted to explain the law of resisting and obstructing to the jury, yet in the eyes of the trial court, his explanation, especially his explanation of when an arrest is lawful, may have required clarification. The elements of resisting and obstructing are: (1) that the defendant resisted arrest; (2) that the arrest was lawful; (3) that the person making the arrest was an officer of the law; (4) that the defendant intended to resist the officer; (5) that the defendant knew he was resisting the officer; and (6) that the defendant knew the officer was making an arrest. *People v Julkowski*, 124 Mich App 379, 383; 335 NW2d 47 (1983). The trial court merely emphasized that an individual may not resist an arrest when such a seizure is lawful. As such, we do not find that defendant was denied a fair and impartial trial. *Collier, supra* at 698.

Next, defendant argues that there was insufficient evidence to support his conviction for resisting and obstructing. We disagree. Viewing the evidence in the light most favorable to the prosecution, our review of the record indicates that defendant committed the crime of resisting and obstructing by fleeing the scene of a traffic stop and hindering the investigation of a sheriff’s deputy who had lawfully stopped a vehicle with a broken taillight and unlighted license plate. As discussed in *People v Pohl*, 207 Mich App 332; 523 NW2d 634 (1994), a defendant commits the crime of resisting and obstructing where his conduct “under all the circumstances hindered an officer conducting a police investigation -- a police function covered by the resisting and obstructing statute.” *Id.* at 333. Here, defendant’s flight, struggle and throwing a punch at a sheriff’s deputy interfered with the deputy’s lawful stop of a vehicle for two traffic violations. We find this situation to be within that contemplated by *Pohl* and find that a reasonable juror could have found that the prosecution proved defendant’s guilt of the crime charged beyond a reasonable doubt. *Id.*

Affirmed.

/s/ Roman S. Gribbs
/s/ William B. Murphy
/s/ Hilda R. Gage