

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHESTER A. MONIER,

Defendant-Appellant.

UNPUBLISHED

June 12, 1998

No. 200597

Recorder's Court

LC No. 95-011991

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction after a jury trial on three counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the prosecutor improperly questioned his fiancée about her failure to tell her story to police. The credibility of a witness may be attacked by showing that she failed to speak or act when it would have been natural to do so, if the facts were in accordance with her testimony. *People v Martinez*, 190 Mich App 442, 446; 476 NW2d 641 (1991). The prosecutor is not required to meet any foundational requirements prior to raising this issue. *People v Phillips*, 217 Mich App 489, 494; 552 NW2d 487 (1996). The timeliness of an alibi account may be highly probative of its truthfulness. *Id.* There was no error when the prosecutor elicited testimony that the witness did not give a statement to police.

Defendant also argues that the prosecutor improperly elicited testimony related to defendant's fiancée's religion. On direct examination, the witness testified that she was engaged to defendant. On cross-examination, she testified that no wedding date had been set because defendant is Catholic and is required to go through the church. The prosecutor elicited details from the witness as to her preparation for marriage in the church. However, the focus of the cross-examination was not on the witness's religious background, but on whether she was in fact engaged to defendant, and living with him at the time of the crimes. The prosecutor properly questioned the witness as to the requirements of the church. *People v Jones*, 82 Mich App 510, 515; 267 NW2d 433 (1978). The cross-examination did

not concern the witness's opinions on the subject of religion, barred by MCL 600.1436; MSA 27A.1436.

Defendant failed to preserve his argument that complainant's mother had improper contact with a jury member. Defendant did not move for a mistrial or an evidentiary hearing. Issues which are not properly raised before a trial court cannot be raised on appeal absent compelling or extraordinary circumstances. *People v Grant*, 445 Mich 535, 546; 520 NW2d 123 (1994). Defendant has the burden of showing bias or prejudice on the part of the jury. *People v Roupe*, 150 Mich App 469, 474; 389 NW2d 449 (1986). He has failed to do so.

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage