

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TODD ALAN ATMAN,

Defendant-Appellant.

UNPUBLISHED

July 6, 1999

No. 211026

Allegan Circuit Court

LC No. 97-010490 FH

Before: Cavanagh, P.J., and Hoekstra and Gage, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of two counts of attempted larceny in a building, MCL 750.360; MSA 28.592. The trial court sentenced defendant as an habitual offender, second offense, MCL 769.10; MSA 28.1082, to one six-month term in jail for both counts. In addition, defendant was ordered to pay restitution in the amount of \$859. Defendant appeals as of right. We affirm.

Defendant first claims that the order of restitution must be reversed because the trial court awarded restitution to complainant Rose Long for expenses unrelated to his criminal conduct. However, because defendant did not request an evidentiary hearing regarding the amount of restitution at sentencing, he has waived this issue.¹ See *People v Gahan*, 456 Mich 264, 276; 571 NW2d 503 (1997). Absent a proper objection, the trial court is entitled to rely on the amount recommended in the presentence investigation report, which is presumed to be accurate unless effectively challenged by the defendant. *Id.* at 276, n 17.

Defendant also alleges error because the order of restitution referred only to the total amount and did not itemize the various losses attributed to defendant's conduct. However, defendant has abandoned this issue by failing to cite authority in support of his argument. See *People v Hanna*, 223 Mich App 466, 475; 567 NW2d 12 (1997).

In addition, defendant claims that his conviction must be reversed because of prosecutorial misconduct. Defendant did not object at trial to the comments of which he now complains. To preserve for appeal an argument that the prosecutor committed misconduct during trial, a defendant

must object to the conduct at trial on the same ground as he asserts on appeal. In the absence of a proper objection, review is precluded unless a curative instruction could not have eliminated the prejudicial effect or the failure to consider the issue would result in a miscarriage of justice. *People v Nantelle*, 215 Mich App 77, 86-87; 544 NW2d 667 (1996).

We have briefly reviewed the comments which defendant alleges were improper and find that the challenged remarks, read in context, constituted proper commentary on the evidence and reasonable inferences drawn therefrom. See *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995). A prosecutor's comments must be considered in light of defense arguments. *People v Messenger*, 221 Mich App 171, 181; 561 NW2d 463 (1997). A prosecutor is not required to state inferences and conclusions in the blandest possible terms. *People v Launsburry*, 217 Mich App 358, 361; 551 NW2d 460 (1996). In addition, a prosecutor may argue from the facts that a witness, including the defendant, is not worthy of belief. *Id.* Any prejudicial effect from the prosecutor's comments could have been alleviated by a curative instruction, and a miscarriage of justice will not result from our declining to give additional consideration to this issue. See *Nantelle, supra*.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Joel P. Hoekstra

/s/ Hilda R. Gage

¹ In any case, our review of the record indicates that the trial court did not award restitution to Long for the hotel expenses. At sentencing, the court ordered defendant to pay Long restitution in the amount of \$400. According to the presentence information report, Long reported losses of \$140 cash, \$225 in lost wages, and \$35 in miscellaneous other costs. The sum of these losses is \$400. Although Long also referred to \$270 in hotel expenses, there is no indication that this amount was included in the award of restitution.