

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY PURIFOY,

Defendant-Appellant.

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UNPUBLISHED

March 26, 2002

No. 228260

Wayne Circuit Court

LC No. 99-006318

Before: Neff, P.J., and Fitzgerald and Talbot, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of assault with intent to murder, MCL 750.83, felonious assault, MCL 750.82, and possession of a firearm during the commission of a felony, MCL 750.227b. Defendant was sentenced to concurrent terms of fifteen to thirty years' imprisonment for the assault with intent to murder conviction and two to four years' imprisonment for the felonious assault conviction, to be served consecutive to the mandatory two years' imprisonment for the felony-firearm conviction. We affirm.

Defendant first argues that the evidence was insufficient to support his assault with intent to murder conviction because the prosecutor failed to establish that defendant specifically intended to kill. We disagree. We review issues regarding the sufficiency of evidence in a light most favorable to the prosecution to determine whether a rational trier of fact could have found all the necessary elements of the offense beyond a reasonable doubt. *People v Petrella*, 424 Mich 221, 268; 380 NW2d 11 (1985).

The elements of assault with intent to murder are: (1) an assault, (2) with an actual intent to kill, (3) which, if successful, would make the killing a murder. *People v McRunels*, 237 Mich App 168, 181; 603 NW2d 95 (1999); MCL 750.83. The intent to kill may be inferred from minimal evidence. *McRunels, supra* at 181; *People v Hoffman*, 225 Mich App 103, 111; 570 NW2d 146 (1997). Assault with intent to murder is a specific intent crime and a defendant may have the requisite state of mind without directing his actions toward any particular victim. *People v Lawton*, 196 Mich App 341, 350-351; 492 NW2d 810 (1992).

Here, the complainant officer testified that defendant pulled a handgun from his waistband, turned in his direction, looked directly at him, and fired a single shot. The officer testified that he saw defendant point the gun at him and heard the gun fire. Viewing this

evidence in a light most favorable to the prosecution, the jury could have reasonably found that defendant specifically intended to kill the officer.

Defendant also asserts that he was denied his right to a fair trial when (1) one of the officers testified, “I believe I’ve investigated the defendant before, but I can’t be a hundred percent sure,” (2) the prosecutor attempted to lower the burden of proof required for a conviction, and (3) the prosecutor allegedly vouched for the officer’s credibility. We disagree. Defendant failed to preserve these issues for appeal because he did not timely and specifically object to the alleged misconduct in the trial court, MRE 103(a)(1); *People v McElhaney*, 215 Mich App 269, 283; 545 NW2d 18 (1996), thereby denying the trial court the opportunity to correct the errors with a curative instruction. Unpreserved claims of prosecutorial misconduct are reviewed for plain error affecting substantial rights, *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999); *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001), and no error requiring reversal will be found where the prejudicial effect could have been cured by a timely instruction. *Watson*, *supra* at 586.

With regard to defendant’s argument that the officer’s testimony denied him a fair trial, we find that defendant suffered little, if any, prejudice from the officer’s comment because the officer did not tie defendant to any other criminal acts or testify about other crimes, wrongs, or acts. MRE 404(b). Further, any prejudice from this testimony could have been cured by a timely instruction. *Watson*, *supra* at 586.

With regard to defendant’s argument that the prosecutor attempted to lower the burden of proof, we find no merit to this argument because the prosecutor’s comments, when viewed in light of defense counsel’s closing argument, simply responded to defendant’s argument that the jurors must acquit him if they had any hesitation during their deliberations. *Watson*, *supra* at 592-593. Regardless, the trial court properly instructed the jury on the prosecutor’s burden of proof; therefore any error was harmless.

Defendant has abandoned his final claim of prosecutorial misconduct because he failed to argue the merits in his appellate brief. *People v Canter*, 197 Mich App 550, 565; 496 NW2d 336 (1992); *People v Griffin*, 235 Mich App 27, 45; 597 NW2d 176 (1999). Further, a cautionary instruction could have cured any prejudice defendant allegedly received from the prosecutor’s remarks. *Watson*, *supra* at 586; *People v Ullah*, 216 Mich App 669, 679; 550 NW2d 568 (1996).

Regardless, defendant has failed to show that any error resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity, or public reputation of the judicial proceedings. *Carines*, *supra* at 763.

Affirmed.

/s/ Janet T. Neff  
/s/ E. Thomas Fitzgerald  
/s/ Michael J. Talbot