

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

QUNTIUS D. SAUNDERS,

Defendant-Appellant.

UNPUBLISHED

April 26, 2011

No. 296130

Wayne Circuit Court

LC No. 09-018020-FC

Before: SERVITTO, P.J., and HOEKSTRA and OWENS, JJ.

PER CURIAM.

Defendant appeals as of right from his jury convictions of armed robbery, MCL 750.529, and carjacking, MCL 750.529a. Defendant was sentenced to concurrent terms of 10-15 years' imprisonment for each conviction. Because the trial court did not abuse its discretion in admitting certain challenged evidence and because defendant was not denied his right to confront witnesses against him, we affirm.

The complainant in this matter testified that he contacted defendant, whom he had not previously known, via an interactive chat line and then arranged to meet defendant in person. Defendant provided directions to the complainant and, when the complainant arrived at the directed location, he parked his car in the street and saw defendant standing in a driveway. Defendant identified himself to the complainant and the two then began walking toward the house. At that time, defendant grabbed the complainant and pushed him against the house while another man emerged from the bushes and held a gun to the complainant's head. The men took the complainant's coat, wallet, cell phone, and car keys.

The complainant ran to another house, and the occupants allowed him to call the police from their phone. While the complainant waited for the police, he saw defendant and the other man get into his car and drive it away.

The complainant was talking with a police officer when another man, Mr. Andrew, approached the officer and said he, too, had just been carjacked. Andrew told the officer, Officer Pawl, that he had located his car in a parking lot and when Officer Pawl drove the complainant and Andrew to the parking lot, they saw defendant attempting to put keys in the door of Andrew's car. Defendant was thereafter arrested and charged with armed robbery and carjacking.

Prior to trial, the prosecution moved to allow admission of other acts evidence pursuant to MRE 404(b). The prosecution specifically sought to introduce the statements made by Andrew in the presence of Officer Pawl and complainant that he, too, had been carjacked. The trial court granted the motion over defendant's objection. The trial proceeded, at the conclusion of which defendant was found guilty as charged.

On appeal defendant claims not only that the other acts evidence was improperly admitted, but also that because Andrew did not appear at trial and his statements were presented through the testimonies of complainant and Officer Pawl, the statements were hearsay and their admission denied defendant his right to confront his accuser.¹ We disagree.

We review a trial court's decision regarding the admission of evidence for an abuse of discretion. *People v Bulmer*, 256 Mich App 33, 34; 662 NW2d 117 (2003). An abuse of discretion occurs when the trial court chooses an outcome falling outside the principled range of outcomes. *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003).

The admissibility of other acts evidence is governed by MRE 404(b)(1), which reads:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident when the same is material, whether such other crimes, wrongs, or acts are contemporaneous with, or prior or subsequent to the conduct at issue in the case.

The substantial limits on the admissibility of other acts evidence notwithstanding, it is essential that all parties are able to give the jury a presentation of the full context in which the disputed events occurred. *People v Sholl*, 453 Mich 730, 741-742; 556 NW2d 851 (1996).

“Evidence of other criminal acts is admissible when so blended or connected with the crime of which defendant is accused that proof of one incidentally involves the other or explains the circumstances of the crime.” [*Id.* at 742, quoting *State v Villavicencio*, 95 Ariz 199, 201; 388 P2d 245 (1964).]

Here, the challenged evidence was not offered to prove that defendant had the propensity to commit the crimes against the complainant. Officer Pawl and the complainant testified that Andrew told them he had been carjacked, and that Officer Pawl drove them to a parking lot where they observed defendant attempting to enter Andrew's car. This evidence simply explained the sequence of events which ultimately led to defendant's arrest. The challenged testimony serves to explain why the officer took the complainant and Andrew to a parking lot,

¹ Defendant's argument regarding the denial of his right to confront Andrew is unpreserved, and thus is reviewed for plain error. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

and how Officer Pawl located defendant. There was no direct evidence presented establishing that defendant participated in the taking of Andrew's car. The statements were thus not improper other acts evidence under MRE 404(b)(1) and, more importantly, defendant has not demonstrated that the evidence was unfairly prejudicial.

In any event, complainant identified defendant as one of two men who robbed him at gunpoint and took his car. This evidence, as accepted by the jury, was sufficient to support the jury's verdict. Even if we were to conclude that admission of the challenged evidence was error, any such error would not have resulted in a miscarriage of justice, and so would not support reversal of defendant's convictions. MCL 769.26.

The admission of the testimony also did not constitute a violation of the Confrontation Clause. While a defendant has the right to be confronted with witnesses against him, see US Const, Am VI; Const 1963, art 1, §20; *Crawford v Washington*, 541 US 36, 42; 124 S Ct 1354; 158 L Ed 2d 177 (2004), "the Confrontation Clause does not bar the use of out-of-court testimonial statements for purposes other than establishing the truth of the matter asserted." *People v Chambers*, 277 Mich App 1, 10-11; 742 NW2d 610 (2007). "Specifically, a statement offered to show why police officers acted as they did is not hearsay." *Id.* at 11.

Again, the testimony regarding Andrew's statements was offered to show why Officer Pawl acted as he did, and not to establish that defendant committed any crimes against Andrew. The testimony was thus not hearsay, and did not violate the Confrontation Clause. *Chambers*, 277 Mich App at 11.

Affirmed.

/s/ Deborah A. Servitto

/s/ Joel P. Hoekstra

/s/ Donald S. Owens