

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL THOMAS PETERSON,

Defendant-Appellant.

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UNPUBLISHED  
February 14, 2003

No. 235265  
Kent Circuit Court  
LC No. 99-011960-FH

Before: Cooper, P.J., and Bandstra and Talbot, JJ.

PER CURIAM.

Defendant appeals as of right from a jury conviction of false pretenses over \$20,000, MCL 750.218(5)(a), for which he was sentenced as an habitual offender, second offense, MCL 769.10, to two to fifteen years in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant contends that his conviction should be reversed due to prosecutorial misconduct because the prosecutor relied on inadmissible other acts evidence in his closing argument. Because defendant failed to object below, this issue has not been preserved for appeal. *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001). Therefore, review is precluded unless the defendant demonstrates plain error that affected the outcome of the lower court proceedings and this Court determines that the error resulted in the conviction of an innocent person or seriously affected the fairness, integrity, or public reputation of judicial proceedings. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

Claims of prosecutorial misconduct are decided on a case-by-case basis. *People v Paquette*, 214 Mich App 336, 342; 543 NW2d 342 (1995). This Court examines the record and evaluates the alleged improper remarks in context to determine whether the defendant was denied a fair and impartial trial. *Id.* Because the evidence was admitted without objection, the prosecutor did not engage in misconduct by relying on it in his closing argument. See *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995).

The crux of defendant's argument is that the court should not have admitted the evidence at all. Again, defendant did not object below, so the issue has not been preserved for appeal, MRE 103(a)(1), and defendant must demonstrate plain error affecting the outcome of the proceedings to obtain relief. *Carines, supra.*

Under MRE 404(b)(1), evidence of other crimes, wrongs or acts is not admissible to prove the character of a person to show action in conformity therewith. Thus, if the sole purpose in offering the evidence is to show the defendant's propensity for particular conduct based on his character as inferred from other wrongful conduct, it is not admissible. *People v Gimotty*, 216 Mich App 254, 259; 549 NW2d 39 (1996). It is admissible, however, for another purpose, such as proof of motive or intent, if that purpose is material. MRE 404(b)(1).

Defendant's unpaid debt to Gary VerPlank and his sale of the stolen car to Marilouise Reuterdaahl constituted other wrongs, one civil and one criminal. However, they were not offered to show that defendant must have committed the crime of false pretenses simply because he had committed other bad acts. Rather, as the prosecutor argued, they showed that defendant had a motive to commit the crime. Because he had little money and substantial debts, he created the false wire transfer receipt to induce a dealership to part with an expensive car, something he could then sell for quick cash, and he did just that. Thus, the evidence was not improper.

The evidence that defendant had a drug problem was not subject to MRE 404(b). The prosecutor did not introduce evidence that defendant was a drug addict; he introduced evidence that defendant said he had a drug addiction problem. Defendant's own statement was admissible against him. MRE 801(d)(2)(A). His statement does not constitute a prior bad act subject to MRE 404(b) "because it is just that, a prior statement and not a prior bad act." *People v Rushlow*, 179 Mich App 172, 176; 445 NW2d 222 (1989), aff'd 437 Mich 149 (1991). Instead, the relevant inquiry is whether the admitted statement was relevant. *Id.* Because defendant has failed to explain why the evidence was irrelevant apart from being an alleged prior bad act or cite any relevant authority in support of his claim, we need not consider the issue. *People v Davis*, 241 Mich App 697, 700; 617 NW2d 381 (2000); *People v Kent*, 194 Mich App 206, 209-210; 486 NW2d 110 (1992).

We affirm.

/s/ Jessica R. Cooper  
/s/ Richard A. Bandstra  
/s/ Michael J. Talbot