

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
June 21, 2011

v

TRAVIS QUAN OWENS,
Defendant-Appellant.

No. 297315
Oakland Circuit Court
LC No. 2009-226671-FC

Before: METER, P.J., and CAVANAGH and SERVITTO, JJ.

MEMORANDUM.

Defendant appeals as of right his jury trial conviction of armed robbery, MCL 750.529. He was sentenced as a habitual offender, fourth offense, MCL 769.12, to a prison term of 20 to 40 years. Because defendant was not denied the effective assistance of counsel, we affirm.

In his sole issue on appeal, defendant argues that trial counsel was ineffective for failing to object to improper arguments by the prosecutor. To prevail, defendant must show that counsel's representation "fell below an objective standard of reasonableness" and demonstrate "a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different" *People v Toma*, 462 Mich 281, 302-303; 613 NW2d 694 (2000).

Contrary to what defendant argues, the prosecutor did not improperly vouch for the complainant's credibility. A prosecutor vouches for a witness by suggesting that the prosecutor has some special knowledge or facts indicating the witness' truthfulness. *People v Bahoda*, 448 Mich 261, 276-277; 531 NW2d 659 (1995). In this matter, the prosecutor stated, during closing argument:

And think about this, ladies and gentlemen. The Judge is going to read you an instruction on credibility, credibility of witnesses. Think about Shelly Hall. Put yourself in her position. Think about what possible motive, what possible bias she would have in this particular case to say there was a knife when there was not? Is she really going to be mistaken about an object that's placed at her throat for approximately one minute? Absolutely not, ladies and gentlemen.

And she certainly isn't going to come in here, raise her right hand to swear to tell the truth, the whole truth and nothing but the truth, and then not tell the

truth[.] When the other evidence corroborates the fact that she did have a knife up against her throat. That's what she told the police five minutes after the incident occurred, and she's told you under oath what she saw.

The prosecutor's argument did not imply that he had any special knowledge or facts. Rather, the argument urged the jury to consider the circumstances that had been presented at trial and conclude that the complainant was credible. The prosecutor's argument was not improper.

We similarly reject defendant's contention that the prosecutor made an improper civic duty argument. A civic duty argument urges the jury to convict for the good of the community, appeals to the jurors' fears and prejudices, and thereby injects issues broader than the guilt or innocence of the accused. See *Bahoda*, 448 Mich at 282. The prosecutor in this case urged the jury to hold defendant accountable, i.e., personally responsible for his actions. The argument was properly focused on defendant's personal guilt or innocence, and not the benefit of the community. Thus, the argument was not improper.

Because the prosecutor's arguments were proper, defense counsel was not ineffective for failing to object. *People v Milstead*, 250 Mich App 391, 401; 648 NW2d 648 (2002).

Affirmed.

/s/ Patrick M. Meter
/s/ Mark J. Cavanagh
/s/ Deborah A. Servitto