

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL ANTHONY DAVIS,

Defendant-Appellant.

UNPUBLISHED

May 18, 2006

No. 259463

Wayne Circuit Court

LC No. 04-006941-01

Before: Jansen, P.J., and Neff and Zahra, JJ.

MEMORANDUM.

Following a jury trial, defendant Paul Davis was convicted of first-degree, premeditated murder, MCL 750.316, and possession of a firearm in the commission or attempted commission of a felony, MCL 750.227b. He appeals as of right. We affirm.

Defendant argues on appeal that the trial court's failure to instruct the jury with respect to the use of witnesses' prior inconsistent statements constitutes error requiring reversal. This issue is waived. Defense counsel expressly approved the trial court's instructions to the jury on two occasions. Immediately after instructing the jury, the court stated: "For the record the court reviewed the jury instructions with counsel prior to delivering them. The court gave all requested instructions correct?" Defense counsel responded: "Correct." The court then stated to defense counsel: "I was just reading and it occurred to me all the possible curative instructions you may want about the murder investigation or anything else that you want or just let it go?" Defense counsel responded, "Let it go."

When counsel expressly approves a trial court's instructions to a jury, this constitutes a waiver that extinguishes any error. *People v Carter*, 462 Mich 206, 216; 612 NW2d 144 (2000). Here, defendant's counsel expressly approved the court's instructions, extinguishing any error and precluding defendant from raising the court's instructions as error on appeal.

Nevertheless we note that even if the issue were subject to judicial review, reversal would not be required.

Affirmed.

/s/ Kathleen Jansen

/s/ Janet T. Neff

/s/ Brian K. Zahra