STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MORRIS LAMONT HANSON,

Defendant-Appellant.

UNPUBLISHED
May 23, 1997

No. 180938
Kent Circuit Court
LC No. 94-1308 FH

Before: Corrigan, C.J., and Young and M.J. Talbot*, JJ.

MEMORANDUM.

After being jury convicted of felonious assault, defendant pleaded guilty to being a fourth offender and received an enhanced sentence. This case is being decided without oral argument pursuant to MCR 7.214(E).

Before trial, the prosecutor stipulated to instruct the state's witnesses not to refer to defendant's past criminal record. However, the testimony of the victim -- that during the assault defendant himself referred to his prior criminal record -- could not reasonably be construed as included within the scope of the prosecutor's agreement, since the prosecutor did not agree that relevant and admissible evidence, constituting part of the res gestae of the crime, would not be presented. *People v Quimby*, 134 Mich 625, 633; 96 NW 1061 (1903). As the evidence was not objectionable or inadmissible, the failure of defense counsel to object was not prejudicial to defendant and cannot establish a basis for appellate relief on a claim of ineffective assistance of counsel. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

Testimony that defendant threatened a witness to induce the witness not to testify against him or otherwise not to report the crime to appropriate authorities was likewise admissible. *People v Hill*, 44 Mich App 308, 318; 205 NW2d 267 (1973), overruled on other grounds *People v Mayberry*, 52 Mich App 450217 NW2d 420 (1974). Accordingly, it is unnecessary to determine whether

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* Circuit judge, sitting on the Court of Appeals by assignment.

defendant's failure to object on the grounds raised on appeal precludes appellate consideration of the issue under the plain error doctrine.

Affirmed.

/s/ Maura D. Corrigan
/s/ Robert P. Young, Jr.
/s/ Michael J. Talbot