STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK ALAN HICKERSON, a/k/a ALBERT ALAN WRIGHT,

Defendant-Appellant.

UNPUBLISHED
May 30, 1997

No. 172316
Macomb Circuit Court
LC No. 93-368 FH

Before: O'Connell, P.J., and Sawyer and Markman, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of larceny over $100, MCL 750.356; MSA 28.588, failure to stop on the direction of a police officer, MCL 257.602a; MSA 9.2302(1), felonious assault (two counts), MCL 750.82; MSA 28.277, and malicious destruction of police property, MCL 750.377b; MSA 28.609(2). He was sentenced to 36 to 60 months' imprisonment for the larceny conviction, 365 days' imprisonment for the fleeing and eluding conviction, 30 to 48 months' imprisonment for each of the felonious assault convictions and 30 to 48 months' imprisonment for the malicious destruction of police property conviction. These sentences were to be served concurrently. Defendant now appeals as of right. We affirm.

Defendant first argues that the trial court should have granted his motion for a mistrial based on the prosecutor's opening statement, in which he referred to the fact that defendant may or may not take the stand. Generally, any comment by the prosecutor regarding the defendant's right to remain silent is error. *People v Jansson*, 116 Mich App 674, 690; 323 NW2d 508 (1982). However, the determination whether such error necessitates a mistrial is entrusted to the discretion of the trial court. *Id.* Here, the trial court's decision to deny defendant's motion for a mistrial was not an abuse of discretion. The prosecution did not imply that, should defendant choose not to take the stand, he should be perceived as guilty, but merely mentioned that after the prosecution presented its case, the defense would present its case. In this context, the prosecution stated, "Defendant, if he wants to take the stand, he doesn't have to. If he wants to, he will have the opportunity." A short time later, the prosecution mentioned that, should defendant elect to testify, the jury would have to evaluate "whether

or not he's telling the truth whatever he says and whether or not he has any reason to lie to get out of these charges." While any reference to a defendant's right to decline to testify is error, *Id.*, we agree that these statements were sufficiently innocuous to be remedied by an appropriate curative instruction. Our review of the court's curative instruction persuades us that defendant suffered no prejudice from these remarks. *Id.*, at 691; *People v Balog*, 56 Mich App 624, 629; 224 NW2d 725 (1974).

Defendant next argues that there was insufficient evidence of value to convict him of larceny over $100. We disagree. The unrefuted testimony of a prosecution witness set the fair market value of the stolen property at well over $100.

Finally, defendant suggests that the trial court improperly permitted testimony regarding value. Defendant has failed to preserve this issue, since he did not include it in his statement of questions involved. *City of Lansing v Hartsuff*, 213 Mich App 338, 351; 539 NW2d 781 (1995). He has also abandoned the issue because he has failed to cite any authority for his position. *People v Piotrowski*, 211 Mich App 527, 530; 536 NW2d 293 (1995). Even were this issue properly raised and argued, we would conclude that it was without merit, since this Court has approved of similar testimony in other cases. See, e.g. *People v Brown*, 179 Mich App 131, 133-135; 445 NW2d 801 (1989); *People v Johnson*, 133 Mich App 150, 153-155; 348 NW2d 716 (1984); *People v Taylor*, 33 Mich App 328, 329; 189 NW2d 832 (1971); *People v Calhoun*, 30 Mich App 160, 164-165; 186 NW2d 56 (1971).

Affirmed.

/s/ Peter D. O'Connell
/s/ David H. Sawyer
/s/ Stephen J. Markman