

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN TIMOTHY ROSSER,

Defendant-Appellant.

UNPUBLISHED

July 18, 1997

No. 168434

Kent Circuit Court

LC No. 92-060435-FH

Before: Wahls, P.J., and Young and J. H. Fisher*, JJ.

PER CURIAM.

Defendant was convicted following a jury trial of second-degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3). He subsequently pleaded guilty to being an habitual offender, third offense, MCL 769.11; MSA 28.1083. The trial judge sentenced defendant as an habitual offender to eight to thirty years' imprisonment. He appeals as of right. We affirm.

I.

Defendant argues that the prosecutor engaged in misconduct by cross-examining him regarding a variety of improper subjects. Defendant's failure to object to the prosecutor's questions below precludes appellate review of the alleged misconduct. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). Any prejudicial effect caused by the prosecutor's questioning could have been eliminated by a timely objection and curative instruction. *People v Burton*, 401 Mich 415, 416-418; 258 NW2d 58 (1977). Moreover, because defendant's own trial counsel introduced evidence regarding these subjects on direct examination, defendant cannot now claim that the prosecutor's inquiry into the same topics resulted in incurable prejudice or a miscarriage of justice. *People v Potra*, 191 Mich App 503, 512; 479 NW2d 707 (1991); *People v Umerska*, 94 Mich App 799, 807-808; 289 NW2d 858 (1980).

II.

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

Defendant also argues that the prosecutor engaged in misconduct by eliciting inadmissible testimony from defense witnesses on cross-examination. However, because defendant did not object to this testimony at trial, appellate review is precluded. *Stanaway, supra*, 446 Mich 687. Moreover, any prejudicial effect could have been cured by a timely objection and cautionary instruction. *Burton, supra*, 401 Mich 416-418. Failure to consider this issue will not result in manifest injustice.

III.

Defendant claims that he was denied effective assistance of counsel by his trial counsel's introduction of testimony regarding his prior convictions. We disagree. Whether to introduce this evidence was a matter of trial strategy which we will not second-guess on appeal. *People v Stewart, (On Remand)*, 219 Mich App 38, 42; 555 NW2d 715 (1996), lv pending; *People v Murph*, 185 Mich App 476, 479; 463 NW2d 156 (1990), modified on other grounds, 190 Mich App 707 (1991).

IV.

Finally, defendant argues that he is entitled to ten months' credit for time served against his minimum prison term. We disagree. Defendant was on parole at the time he committed this crime, and thus is not entitled to credit for time spent in jail while being held on a parole detainer. *People v Stewart*, 203 Mich App 432, 433; 513 NW2d 147 (1994).

Affirmed.

/s/ Myron H. Wahls
/s/ Robert P. Young, Jr.
/s/ James H. Fisher