

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHNNY MARTIN III,

Defendant-Appellant.

UNPUBLISHED
October 30, 1998

No. 203790
Recorder's Court
LC No. 96-009615

Before: Griffin, P.J., and Gage and R. J. Danhof*, JJ.

MEMORANDUM.

Defendant was convicted in a bench trial of armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He appeals as of right and we affirm.

Defendant argues that evidence of another robbery allegedly committed a few minutes later by defendant or one of his companions was introduced by the prosecutor in violation of MRE 404(b). Defendant failed to preserve this issue because he did not object to this evidence below. A plain unpreserved error will not be considered by this Court for the first time on appeal unless the error could have been decisive of the outcome. *People v Grant*, 445 Mich 535, 553; 520 NW2d 123 (1994). The challenged error—which was precipitated by a prosecution witness' nonresponsive testimony on direct examination and by defense counsel's subsequent characterization of the incident during cross-examination as a "robbery"—was not decisive of the outcome in this case which was tried before the bench. Defendant's guilt of the charged offense was supported by overwhelming evidence.

Affirmed.

/s/ Richard Allen Griffin
/s/ Hilda R. Gage
/s/ Robert J. Danhof

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