

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH STRINGER,

Defendant-Appellant.

UNPUBLISHED
December 8, 2000

No. 216578
Wayne Circuit Court
LC No. 98-000527

Before: Bandstra, C.J., and Fitzgerald and D. B. Leiber*, JJ.

MEMORANDUM.

Defendant appeals as of right from a jury conviction of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, for which he was sentenced as an habitual offender third, MCL 769.11; MSA 28.1083, to seven to twenty years in prison. We affirm.

Defendant first contends that the trial court erred when it precluded him from asking the complainant if he sold drugs or if his home was subsequently padlocked by the city. We review this issue for an abuse of discretion. *People v Gould*, 225 Mich App 79, 88; 570 NW2d 140 (1997). The evidence was not relevant for the purpose for which it was offered because it did not permit a reasonable inference that someone else committed the crime, *People v Brooks*, 453 Mich 511, 519; 557 NW2d 106 (1996); *People v Helcher*, 14 Mich App 386, 390; 165 NW2d 669 (1968), and thus was properly excluded. MRE 401; MRE 402. Evidence that the complainant operated a crack house may have been relevant to support defendant's claim that he went to confront the complainant about that activity, but defendant himself offered such testimony, which was supported by another witness' testimony that the complainant and others had been using cocaine. Therefore, even if the court should have admitted the evidence for that purpose, the error was not outcome determinative and does not justify relief. *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999).

Defendant next contends that the trial court erred in failing to give a limiting instruction on the use of a witness' prior inconsistent statement. We review claims of instructional error de novo. *People v Hubbard (After Remand)*, 217 Mich App 459, 487; 552 NW2d 493 (1996).

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

Because defendant did not request a limiting instruction, the prosecutor did not suggest to the jury that the prior inconsistent statement could be used as substantive evidence, and defendant has not demonstrated that the omission was prejudicial to the extent that it affected the outcome of the trial, defendant is not entitled to relief for this unpreserved claim of error. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *People v Stanton*, 190 Mich App 558, 562-563; 476 NW2d 477 (1991).

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Dennis B. Leiber