

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAMON J. OLDMAN,

Defendant-Appellant.

UNPUBLISHED
November 2, 2001

No. 225656
Oakland Circuit Court
LC No. 99-169008-FH

Before: Doctoroff, P.J., and Wilder and Chad C. Schmucker*, JJ.

MEMORANDUM.

Defendant appeals as of right from a jury conviction of receiving and concealing stolen property over \$100, MCL 750.535, for which he was sentenced as an habitual offender, fourth offense, MCL 769.12, to 1½ to 20 years' imprisonment. We affirm.

Defendant's sole claim on appeal is that the trial court erred in ruling that he could be impeached with evidence of two prior convictions under MRE 609. We disagree. The court did not rule on the issue because defendant indicated an intent not to testify and left the issue open in the event he changed his mind. Because the issue was not decided by the trial court, there is nothing for this Court to review. *Allen v Keating*, 205 Mich App 560, 564-565; 517 NW2d 830 (1994); *People v Evola*, 202 Mich App 178, 180; 507 NW2d 815 (1993). Moreover, in light of the fact that defendant never objected to the admission of the evidence, never indicated an intent to testify if it were excluded, and never actually testified, we find that this unpreserved error does not warrant relief. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999); *People v Finley*, 431 Mich 506; 431 NW2d 19 (1988).

Affirmed.

/s/ Martin M. Doctoroff
/s/ Kurtis T. Wilder
/s/ Chad C. Schmucker

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