

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY ALLEN BACON,

Defendant-Appellant.

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UNPUBLISHED

July 12, 2002

No. 229766

Shiawassee Circuit Court

LC No. 99-003590-FH

Before: Hood, P.J., and Saad, and E. M. Thomas\*, JJ.

MEMORANDUM.

Defendant was convicted by jury trial of domestic violence, third offense, MCL 750.81(2) and (4). He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal defendant argues that the circuit court erred by admitting testimony regarding prior bad acts by defendant under MRE 404(b)(1). We find no error. The prosecutor sought to admit the challenged testimony to prove that its eyewitness was not mistaken, a proper purpose under MRE 404(b)(1). The accuracy of the eyewitness's perception of events was relevant to a consequential issue of fact, namely whether defendant violently assaulted the victim or merely "scooted" her out of his truck. This evidence had a high probative value which outweighed the danger of unfair prejudice because the case otherwise presented a credibility contest between witnesses. The circuit court did not abuse its discretion by admitting this evidence. *People v Crawford*, 458 Mich 376, 383, 385; 582 NW2d 785 (1998).

Affirmed.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Edward M. Thomas

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