

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL ALLEN ROCHELEAU,

Defendant-Appellant.

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UNPUBLISHED  
November 8, 2002

No. 236377  
Oakland Circuit Court  
LC No. 2000-172365-FC

Before: Griffin, P.J., and Gage and Meter, JJ.

MEMORANDUM.

Defendant appeals as of right from a jury conviction of armed robbery, MCL 750.529, for which he was sentenced as an habitual offender, third offense, MCL 769.11, to five to twenty years in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the court erred in allowing the victim to testify that he was so affected by the robbery he ultimately sold the store where it occurred. Defendant never objected to the testimony at trial and thus has failed to preserve the issue for appeal. MRE 103(a)(1); *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001), lv den 465 Mich 949 (2002). Therefore review is precluded unless defendant establishes plain error that affected the outcome of the trial. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

We find no error. The testimony was relevant under MRE 401. It was highly probative to establish an element of the offense, namely that the victim was assaulted or placed in fear by defendant's actions. *People v Randolph*, \_\_ Mich \_\_; \_\_ NW2d \_\_ (Docket Nos. 117750, 118078, decided July 11, 2002), slip op at 17; *Carines*, *supra* at 757. Although damaging, the probative value of the testimony was not substantially outweighed by the danger of unfair prejudice. MRE 403; *People v Meadows*, 175 Mich App 355, 361; 437 NW2d 405 (1989). In any event, it is highly unlikely that the evidence affected the outcome of the trial, given that the

critical issue was not whether an armed robbery had occurred but whether defendant was the person who committed the offense.

Affirmed.

/s/ Richard Allen Griffin

/s/ Hilda R. Gage

/s/ Patrick M. Meter