

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSE ANTONIO ESQUIVEL,

Defendant-Appellant.

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UNPUBLISHED

January 22, 2004

No. 243044

Wayne Circuit Court

LC No. 01-010885-01

Before: Fort Hood, P.J., and Bandstra and Meter, JJ.

MEMORANDUM.

Defendant was convicted, following a jury trial, of assault with intent to rob while armed, MCL 750.89, felonious assault, MCL 750.82, leaving the scene of a serious personal injury accident, MCL 257.617, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to four years and three months to twenty years' imprisonment for the assault with intent to rob conviction, two to four years' imprisonment for the felonious assault conviction, two to five years' imprisonment for the leaving the scene of an accident conviction, and two years' imprisonment for the felony-firearm conviction. Defendant appeals as of right, and we affirm.

Defendant's convictions arise out of the assault and stabbing of the victim as he performed auto maintenance on a vehicle in front of his home. Police officers were able to apprehend defendant at the scene because of an earlier report of an armed robbery and assault upon a different individual that occurred on the same street, a short distance from the stabbing.

Defendant first alleges that the trial court erred in admitting evidence of the earlier assault and robbery where identification of defendant was not at issue. We disagree. A trial court's decision to admit evidence will be reversed only where there has been a clear abuse of discretion. *People v Crawford*, 458 Mich 376, 383; 582 NW2d 785 (1998). The trial court's admission of the earlier assault was proper because it was so connected to the charged crimes and explained the circumstances underlying the charged crimes. *People v Scholl*, 453 Mich 730, 742; 556 NW2d 851 (1996).

Defendant next alleges that a new trial is warranted because of improper conduct and argument by the prosecutor. We disagree. The admission of defendant's exercise of his *Miranda*<sup>1</sup> rights was not improper. A police officer may testify regarding admissions made prior to a defendant's exercise of his *Miranda* rights to establish the end and beginning of an interrogation and to give a complete overview provided there is no undue emphasis on the subsequent exercise of *Miranda* rights. *People v McReavy*, 436 Mich 197, 215-216; 462 NW2d 1 (1990), citing *Rowan v Owens*, 752 F2d 1186 (CA 7, 1984). Additionally, the comments made by the prosecutor, viewed in context, were based on the evidence and all reasonable inferences arising from the evidence as related to the theory of the case. *People v Schultz*, 246 Mich App 695, 710; 635 NW2d 491 (2001). Having concluded that the statements by the prosecutor were not improper, defendant's claim of ineffective assistance based on the failure to object to these statements is without merit. See *People v Knapp*, 244 Mich App 361, 386; 624 NW2d 227 (2001).

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Richard A. Bandstra  
/s/ Patrick M. Meter

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<sup>1</sup> *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966).