

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VAUGHN L WATTS,

Defendant-Appellant

UNPUBLISHED

May 20, 2004

No. 246881

Wayne Circuit Court

LC No. 02-002089

Before: Markey, P.J., and Wilder and Meter, JJ.

METER, J. (*concurring in part and dissenting in part*).

I concur in the majority's opinion except for its analysis of the prosecutorial misconduct issue. I believe the prosecutor committed error requiring reversal during his final arguments, and I would reverse defendant's conviction and remand for a new trial.

Twice during his final arguments the prosecutor improperly appealed to the jury's civic duty. In his initial closing argument, the prosecutor argued:

And it's a case that's going to be watched by the police community, by the legal community as to what happens here and what we're going to say about this conduct

Later, in rebuttal, the prosecutor continued:

And you, through your verdict, and it has to be you, through your verdict, to declare that we're not going to tolerate this.

That you, as representatives of the community, are not going to tolerate police or anybody else conducting themselves in that way in our court of law.

And if we can't get that from you, and we can't do that, then we may as well pack up our tent and go home because we can't go on and present cases and fight crime and try and solve it if we don't have that from you in a case like this where we have to have a statement through a verdict of guilty

I find that the above statements constituted an improper appeal to the jury's civic duty and were coercive. *People v Biondo*, 76 Mich App 155, 158-160; 256 NW2d 60 (1977); *People v Gloria Williams*, 65 Mich App 753, 755-756; 238 NW2d 186 (1975). Although defense counsel did not object, I conclude that, under the circumstances of the case, the improper arguments constituted plain, prejudicial error that seriously affected the fairness and integrity of these judicial proceedings. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

I would reverse and remand for a new trial. See *Biondo*, *supra* at 160.

/s/ Patrick M. Meter