

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN BENJAMIN HATTER,

Defendant-Appellant.

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UNPUBLISHED

October 23, 2007

No. 275944

Saginaw Circuit Court

LC No. 06-027672-FC

Before: Owens, P.J., and Bandstra and Davis, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial convictions of three counts of criminal sexual conduct in the first degree (CSC I), MCL 750.520b(1)(a), and one count of attempted CSC I, MCL 750.520b(1)(a); MCL 750.92. The trial court sentenced defendant as a second habitual offender, MCL 769.10, to four concurrent terms of 20 to 40 years in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole argument on appeal is that he was denied a fair and impartial trial when the prosecutor solicited testimony from complainant's mother that she could tell when complainant was telling the truth, and that the mother believed what complainant told her. We disagree.

To properly preserve a claim of prosecutorial misconduct, a defendant must promptly and specifically object to the offensive conduct. *People v Callon*, 256 Mich App 312, 329; 662 NW2d 501 (2003). Here, defendant promptly and specifically objected to a question asked during the prosecutor's direct examination of complainant's mother.

We review issues of prosecutorial misconduct de novo to determine if the defendant was denied a fair trial. *People v Abraham*, 256 Mich App 265, 272; 662 NW2d 836 (2003). Prosecutorial misconduct issues are decided on a case-by-case basis; we must examine the pertinent portion of the record, and must evaluate a prosecutor's remarks in context. *People v Noble*, 238 Mich App 647, 660; 608 NW2d 123 (1999).

Complainant's mother testified that she could tell if her daughter (the victim) was telling the truth or lying, and that she believed her daughter was telling the truth. It is generally improper to ask one witness about the credibility of another witness. *People v Messenger*, 221 Mich App 171, 180; 561 NW2d 463 (1997). However, a trial court can cure such error with a

limiting instruction. *Id.* Here, the trial court instructed the jury that only it could decide which witnesses to believe. The trial court gave this instruction just after the prosecutor asked the improper question.

The trial court instructed the jurors regarding the proper use of complainant's mother's testimony, and that her testimony could not be used to show that the victim told the truth. "Jurors are presumed to follow their instructions, and instructions are presumed to cure most errors." *Abraham, supra* at 279.

The trial court's instructions dispelled any prejudice arising from the prosecutor's questions. *Messenger, supra* at 180. Defendant received a fair and impartial trial. *Abraham, supra* at 272.

Affirmed.

/s/ Donald S. Owens  
/s/ Richard A. Bandstra  
/s/ Alton T. Davis