

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALONZO LEWIS,

Defendant-Appellant.

UNPUBLISHED

June 26, 2008

No. 277755

Macomb Circuit Court

LC No. 06-005311-FC

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

WHITE, J. (*concurring*).

While it was not improper to allow testimony regarding defendant's demeanor during the interview, Briney's testimony went beyond an account of defendant's demeanor and into the realm of comment on defendant's truthfulness and credibility. I nevertheless agree with the affirmance because I join in the conclusion that the error was harmless. Similarly, although some of the prosecutor's comments in argument crossed the line into the realm of impermissible appeal to sympathy, I agree that any prejudice could have been cured by a timely instruction, and that the outcome of the trial was not affected.

/s/ Helene N. White