

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME ANTHONY YOUNG,

Defendant-Appellant.

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UNPUBLISHED

July 29, 2008

No. 278578

Wayne Circuit Court

LC No. 07-005403-01

Before: Saad, C.J., and Fort Hood and Borrello, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to consecutive prison terms of 70 months to 20 years for the armed robbery conviction and two years for the felony-firearm conviction. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

According to the complainant, Thomas Kibbler, the manager of the bar where he worked gave him five dollars to buy a pizza. On the way to the pizza store, Kibbler encountered defendant, whom Kibbler had known for ten years. When defendant asked him for money for bus fare, Kibbler explained that the money belonged to his boss. Defendant demanded the money, Kibbler declined, but then defendant pulled a gun from his pocket, placed it on Kibbler's breastbone, and said he needed the money now. Kibbler told defendant that he did not want to get killed over five dollars and gave him the money. Kibbler ran back to the bar and reported the robbery to his boss, who called the police.

The police followed tracks in the snow and apprehended defendant three blocks from the incident. Officer Weekley testified that defendant remarked, "I can't believe you're arresting me for five dollars," and later said, "I would have told you where the gun was but yall are assholes." Defendant said that he was going to send people to Kibbler's house and kill him. Officer Covington testified that defendant remarked, "all of this over five dollars," and "something like it was a nice gun and yall won't find it." Defendant was carrying a five-dollar bill and eight singles when he was arrested. Defendant testified that Kibbler owed him twenty dollars and voluntarily gave him a five-dollar bill when defendant approached him. During his testimony, defendant denied having a gun, denied making the comments that the police officers attributed to him, and denied making a written statement. Kibbler asserted that he never owed defendant any money.

Defendant argues that he was denied a fair trial by Sgt. Hansberry's testimony, "I sensed that he [defendant] wasn't giving me the entire story," in reference to defendant's statement. Defendant argues that by offering that opinion, Sgt. Hansberry usurped the role of the jury to decide issues of credibility. Defendant also argues that the prosecutor committed misconduct by questioning him (defendant) concerning his belief that the police officers were lying.

Because defendant did not object to the challenged testimony or the prosecutor's conduct, we review these issues for plain error affecting defendant's substantial rights. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

Generally, it is improper for a witness, including a defendant, to provide an opinion regarding the credibility of another witness because credibility is to be determined by the jury. *People v Buckey*, 424 Mich 1, 17; 378 NW2d 432 (1985). Here, Sgt. Hansberry expressed an opinion regarding the completeness of a statement that defendant allegedly made to the police. Assuming arguendo that this amounted to plain error, defendant's substantial rights were not affected. Given that Sgt. Hansberry was called as a prosecution witness and that a criminal prosecution was instituted against defendant, the jurors would have understood that Sgt. Hansberry did not believe defendant's exculpatory account even without the disputed testimony. Cf. *People v Dobek*, 274 Mich App 58, 71; 732 NW2d 546 (2007). Therefore, Sgt. Hansberry's testimony did not affect the outcome of the proceedings, and defendant is not entitled to relief under *Carines, supra*. Although the prosecutor's repeated questioning of defendant concerning whether the police officers were lying was improper, the questioning did not affect the outcome of the trial. The conflict between defendant's account and that of the police officers was apparent without the disputed testimony. The prosecutor's questioning resulted in defendant's explicit characterization of their testimony as lies, but this implication was already present, and therefore, there is no reason to believe that the questioning was prejudicial.

Defendant also argues that trial counsel was ineffective for failing to object to Sgt. Hansberry's testimony and the prosecutor's improper questioning of defendant. However, there is no reasonable probability that, but for counsel's failure to object, the result of the proceedings would have been different. Therefore, defendant cannot establish that trial counsel's performance was prejudicial, as is necessary to establish ineffective assistance of counsel. *People v Toma*, 462 Mich 281, 302-303; 613 NW2d 694 (2000).

Affirmed.

/s/ Henry William Saad  
/s/ Karen M. Fort Hood  
/s/ Stephen L. Borrello