

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RASHAWN SMITH, a/k/a DAJUAN A.
ROBINSON,

Defendant-Appellant.

UNPUBLISHED

October 3, 1997

No. 194536

Recorder's Court

LC No. 95-003361

Before: O'Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Defendant was convicted at a bench trial of armed robbery, MCL 750.529; MSA 28.797, and sentenced to four to twenty years' imprisonment. Defendant appeals by leave granted. We affirm.

Defendant has forfeited appellate review of his claimed evidentiary error. *People v Grant*, 445 Mich 535, 548-549, 552-553; 520 NW2d 123 (1994). Defendant has failed to establish that the admission of the now challenged testimony constituted plain error. *Id.* The testimony was properly admitted rebuttal testimony in that it helped establish that defendant made an admission to a defense witness. *People v Losey*, 413 Mich 346, 351 n 3; 320 NW2d 49 (1982). However, assuming arguendo that the now challenged testimony was erroneously admitted, the error would not be decisive of defendant's trial. *Grant, supra.* The instant case was a bench trial and, therefore, the judge, sitting as a factfinder, is presumed to possess an understanding of the law that allows the judge to ignore certain errors and to decide the case based solely on the evidence properly admitted at trial. *People v Jones*, 168 Mich App 191, 194; 423 NW2d 614 (1988). The validity of this presumption is borne out by the instant record. A review of the judge's findings reveals that he did not rely on the challenged testimony in arriving at his determination of defendant's guilt.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Peter D. O'Connell
/s/ Helene N. White
/s/ Carole F. Youngblood