STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID ALLEN JORDAN,

Defendant-Appellant.

UNPUBLISHED
June 26, 1998

No. 198758
Detroit Recorder's Court
LC No. 95-002107

Before: Sawyer, P.J., and Bandstra and J.B. Sullivan*, JJ.

PER CURIAM.

Defendant appeals by leave granted his jury trial convictions for first-degree murder, MCL 750.316; MSA 28.548, assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant's nonparolable life sentence for his murder conviction is to be served concurrently with his five-to-ten year sentence for the assault conviction, to be served consecutively to a two-year sentence for felony-firearm. We affirm.

Defendant's first argument on appeal is that he is entitled to a new trial because the prosecutor committed misconduct by introducing a witness' hearsay statement. Defendant failed to object to the alleged prosecutorial misconduct. Therefore, this issue was not properly preserved for appeal. *People v Launsburry*, 217 Mich App 358, 361; 551 NW2d 460 (1996). Furthermore, our review of the record shows that the testimony was cumulative, and, therefore, any error was harmless because it did not prejudice defendant. MCL 769.26; MSA 28.1096; MCR 2.613(A); *People v Rodriquez (On Remand)*, 216 Mich App 329, 332; 549 NW2d 359 (1996). For the same reason, defense counsel's failure to object did not amount to ineffective assistance of counsel. *People v Stanaway*, 446 Mich 643, 687-688; 521 NW2d 557 (1994).

Defendant also contends that the trial court abused its discretion in sentencing him as an adult rather than as a juvenile. We disagree. Review of a trial court's decision to sentence a minor as a juvenile or as an adult is bifurcated. First, the trial court's factual findings supporting its determination

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

regarding each factor enumerated in MCL 769.1(3); MSA 28.1072(3) are reviewed under the clearly erroneous standard. *Launsburry*, *supra* at 362. The trial court's factual findings are clearly erroneous if, after review of the record, this Court is left with the definite and firm conviction that a mistake has been made. *Id.* Second, the ultimate decision whether to sentence the minor as a juvenile or as an adult is reviewed for an abuse of discretion. *Id.*

Our review of the record reveals that the trial court considered defendant's prior criminal record, his age, his mental and physical maturity, potential for rehabilitation, the availability of treatment in the juvenile system, and the seriousness of the offense. The trial court's findings were supported by the record and were not clearly erroneous. Furthermore, "given the severity of the offense and the inability to predict whether defendant would still be dangerous at the age of twenty-one, we find no abuse of discretion in the court's decision to sentence him as an adult." *Id.* at 362-363; see, also, MCL 769.1(3); MSA 28.1072(3).

We affirm.

/s/ David H. Sawyer
/s/ Richard A. Bandstra
/s/ Joseph B. Sullivan