

STATE OF MICHIGAN
COURT OF APPEALS

In re PAUL SILAS RICHARDS, Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL SILAS RICHARDS,

Defendant-Appellant.

UNPUBLISHED
February 26, 2002

No. 227052
Wayne Circuit Court
Juvenile Division
LC No. 98-369215

Before: Smolenski, P.J., and Doctoroff and Owens, JJ.

PER CURIAM.

Defendant, a juvenile, appeals as of right from his conviction of assault and battery, MCL 750.81. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with assault and battery on a five-year-old neighbor child. The victim testified that, on June 7, 1999, defendant and defendant's brother wrestled with him and that defendant dragged him by his shirt. When the victim went home, his father noticed bruises and welts around his neck, which were caused by the shirt collar during the alleged dragging.

During trial, defense counsel asked the victim about other bruises he had received in the past and what caused those bruises. The trial court sustained the prosecutor's objection to the question as irrelevant. Defense counsel explained that the defense theory was that the victim's father was abusive and had bruised the child on various other occasions over the summer, and that it was therefore likely that the father had caused these bruises. The court concluded that any bruises the victim might have had on other occasions were irrelevant. Nevertheless, defense counsel was allowed to ask the victim if his bruises were caused by his father, which the victim denied. In addition, two defense witnesses were also allowed to testify that they had observed the victim with bruises on other occasions, and that the victim had told them that his father beat him.

Defendant now claims that he was denied his right to confront witnesses against him and the right to present a defense by the trial court's exclusion of testimony regarding abuse by the

victim's father. Generally, a trial court's evidentiary rulings are reviewed for an abuse of discretion. *People v Bahoda*, 448 Mich 261, 289; 531 NW2d 659 (1995).

The only issue in this case was whether defendant caused the victim's injuries on June 7, 1999. Thus, evidence pertaining to the victim's injuries on other dates was irrelevant. Therefore, we are not persuaded that the trial court abused its discretion by excluding questions regarding other injuries on other dates. MRE 402. Indeed, the trial court has a duty to limit the introduction of evidence and the arguments of counsel to relevant and material matters. MCL 768.29; *People v Ullah*, 216 Mich App 669, 674, 678; 550 NW2d 568 (1996).

Moreover, we note that MRE 404(b)(1) applies to the admissibility of evidence of other acts of any person. *People v Rockwell*, 188 Mich App 405, 409-410; 470 NW2d 673 (1991). A defendant may introduce prior bad acts of a third party that is not a codefendant or a witness. *People v Catanzarite*, 211 Mich App 573, 579; 536 NW2d 570 (1995). "Nonetheless, a defendant remains bound by the requirement that the evidence is not offered to prove conformity with character." *Id.* Here, the evidence defendant sought to admit was inadmissible under MRE 404(b) because the sole purpose of the evidence was to suggest that the victim's father probably caused the injuries simply because he had purportedly hit the child on other occasions. Finally, defendant was not prejudiced because the trial court allowed him to specifically ask the victim if his father caused the bruises on his neck.

Affirmed.

/s/ Michael R. Smolenski
/s/ Martin D. Doctoroff
/s/ Donald S. Owens