

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES M. HARGRAVE,

Defendant-Appellant.

UNPUBLISHED

March 15, 2002

No. 224826

Wayne Circuit Court

LC No. 99-003715

ON REHEARING

Before: Cavanagh, P.J., and Doctoroff and Jansen, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of carjacking, MCL 750.529a, and sentenced to eighteen to thirty years' imprisonment. He appeals as of right. We affirm.

Defendant first argues that the prosecutor presented insufficient evidence to support his carjacking conviction. We disagree. It was not necessary that the victim be physically separated from her motor vehicle for the requisite forceful taking to occur. *People v Green*, 228 Mich App 684, 696; 580 NW2d 444 (1998). Viewed most favorably to the prosecutor, the victim's testimony about defendant forcing himself into her motor vehicle and forcefully exercising dominion and control of it was sufficient to enable a rational trier of fact to find the elements of carjacking beyond a reasonable doubt. See *People v Mayhew*, 236 Mich App 112, 124-125; 600 NW2d 370 (1999); *Green, supra*.

We decline to consider defendant's assertion that a finding of insufficient evidence is supported by the jury's acquittal on the additional charge of first-degree criminal sexual conduct. A mere statement of position is insufficient to bring an issue before this Court. See *In re Toler*, 193 Mich App 474, 477; 484 NW2d 672 (1992). In any event, as the prosecutor correctly argues, inconsistent verdicts do not warrant appellate relief. See *People v Lewis*, 415 Mich 443, 455; 330 NW2d 16 (1982).

Defendant next argues that the trial court abused its discretion by preventing defense counsel from cross-examining the victim about an August 1999 probate petition filed by her father regarding her psychiatric condition. We disagree. A trial court's limitation of cross-examination is reviewed for an abuse of discretion. *People v Norman Crawford*, 232 Mich App 608, 620; 591 NW2d 669 (1998).

Defendant alleges that the cross-examination would have illustrated that the victim suffered from a mental illness that could bear on her recollection of the events at issue. However, it was not claimed that the victim was delusional about defendant acquiring possession of her vehicle. Further, the incident underlying the August 1999 petition occurred four months *after* the incident giving rise to the charges in this case and, thus, was remote in time. In addition, the proposed cross-examination regarding the petition would not have produced any evidence of the victim's mental health in either April or August, other than what the victim would claim in her testimony. Consequently, defendant's proposed use of the cross-examination to prove a delusional mental illness in April 1999 is speculative. Even if the proffered cross-examination had some relevancy, at best it was relevant only to a collateral matter in connection with the victim's general credibility. See *People v Canter*, 197 Mich App 550, 564; 496 NW2d 336 (1992). In sum, the trial court did not abuse its discretion by precluding the cross-examination.

Defendant also argues that the trial court's denial of his challenges to the scoring of the sentencing guidelines offense variables led to a disproportionate sentence. Because defendant does not address any of the trial court's rulings with regard to the scoring of the offense variables in his brief, this issue is not properly before this Court. See *People v Kent*, 194 Mich App 206, 210; 486 NW2d 110 (1992). Further, giving due consideration to the fact that defendant was sentenced under the legislative guidelines, defendant has not established any basis for vacating his sentence. See MCL 769.34(10); *People v Babcock*, 244 Mich App 64, 73; 624 NW2d 479 (2000).

Next, defendant argues in his supplemental brief filed in propria persona that the trial court erred when it excluded evidence regarding the victim's alleged prior false accusations of rape against a member of her family. We disagree. The decision whether to admit evidence is within the trial court's discretion and will not be disturbed on appeal absent a clear abuse of discretion. *People v Starr*, 457 Mich 490, 494; 577 NW2d 673 (1998). Further, reversal is not warranted unless, after examination of the entire cause, it affirmatively appears that it is more probable than not that the error was outcome determinative. *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999).

The rape-shield statute, MCL 750.520j, governs the admissibility of evidence regarding a victim's sexual conduct in criminal sexual conduct cases. See *People v Adair*, 452 Mich 473, 478; 550 NW2d 505 (1996). Generally, evidence of a victim's sexual conduct that may illustrate witness bias, an ulterior motive for making a false charge, or a history of alleging false accusations of rape may be admissible as relevant and necessary to preserve a defendant's constitutional right to confrontation. See *People v Hackett*, 421 Mich 338, 348; 365 NW2d 120 (1984). In this case, even if we were to assume that the proposed testimony was erroneously excluded, the error was not outcome determinative and, in fact, was harmless beyond a reasonable doubt because defendant was acquitted of the first-degree criminal sexual conduct charge. See *People v Carines*, 460 Mich 750, 774; 597 NW2d 130 (1999); *People v Moorers*, 246 Mich App 680, 682-683; 635 NW2d 47 (2001); *People v Leo*, 188 Mich App 417, 427-428; 470 NW2d 423 (1991). Accordingly, reversal of defendant's carjacking conviction is not warranted. See *Lukity, supra*; *Carines, supra*.

Finally, defendant argues that the trial court erred when it excluded evidence regarding the victim's alleged history of prostitution. We disagree. Even if the proposed testimony was

erroneously excluded, although it likely was not, any error was rendered harmless when defendant was acquitted of the first-degree criminal sexual conduct charge. See *Adair, supra*; *Hackett, supra* at 347-348; *Moorer, supra*; *Leo, supra*. Therefore, reversal of defendant's carjacking conviction is not required. See *Carines, supra*.

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Kathleen Jansen