

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

PHILIP KYLE BAILEY,

Defendant-Appellant.

UNPUBLISHED

July 5, 2002

No. 230571

Oakland Circuit Court

LC No. 2000-172950-FH

Before: Hood, P.J., and Saad and E. M. Thomas,* JJ.

MEMORANDUM.

Defendant appeals as of right from his conviction for first-degree home invasion, MCL 750.110a(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal defendant argues that he is entitled to a new trial because the circuit court refused to provide the jury with a transcript of one of the complaining witnesses' trial testimony. We disagree. When it received the jury's request, the trial court discussed it with both counsel, who agreed that the witness had testified the day before, that there was no transcript yet, and that the trial court should instruct the jury to rely upon their collective memory. The court gave the agreed-to instruction and told the jury that if they remained unsure it could arrange to have the court reporter read back relevant portions of the testimony. The jury did not ask to have any testimony read back. The circuit court did not abuse its discretion by failing to provide the requested transcript. *People v Crawford*, 232 Mich App 608, 620; 591 NW2d 669 (1998).

Affirmed.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Edward M. Thomas

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