

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODNEY BRUCE HINES,

Defendant-Appellant.

UNPUBLISHED
February 14, 2003

No. 237238
Macomb Circuit Court
LC No. 99-002871-FH

Before: O'Connell, P.J., and Fitzgerald and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for carrying a concealed weapon, MCL 750.227. We affirm.

On appeal, defendant argues that he was denied a fair trial by prosecutorial misconduct. Appellate review of allegedly improper conduct is precluded if the defendant fails to specifically object unless an objection could not have cured the error or a failure to review the issue would result in a miscarriage of justice. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994). Defense counsel only objected to one question by the prosecutor, and he failed to request a curative instruction.

Unpreserved issues are reviewed for plain error that affected substantial rights. *People v Rodriguez*, 251 Mich App 10, 32; 650 NW2d 96 (2002). Reversal is warranted only when a plain error resulted in the conviction of an actually innocent defendant or seriously affected the fairness, integrity or public reputation of judicial proceedings. *People v Schutte*, 240 Mich App 713, 720; 613 NW2d 370 (2000).

Prosecutorial comments must be read as a whole and evaluated in light of defense arguments and the relationship they bear to the evidence admitted at trial. *Id.*, 721. It is improper for a prosecutor to ask the defendant to comment on the credibility of prosecution witnesses, although such an error does not necessarily warrant reversal. *People v Buckey*, 424 Mich 1, 17; 378 NW2d 432 (1985). Where defense counsel repeatedly asked complainant whether other witnesses were lying, the prosecutor's questions responded to matters previously raised by defendant, and do not require reversal. *People v Potra*, 191 Mich App 503, 513; 479 NW2d 707 (1991).

A prosecutor is free to argue the evidence and all reasonable inferences arising from it as they relate to his theory of the case, *People v Bahoda*, 448 Mich 261, 282; 531 NW2d 659 (1995). A prosecutor may not urge the jurors to convict the defendant as part of their civic duty. *Id.* Here, the prosecutor presented argument in support of which witnesses should be believed. She did not assert that the jury should believe the prosecution witnesses based on the prosecutor's opinion or her personal status, and defendant was not prejudiced by the remarks.

Affirmed.

/s/ Peter D. O'Connell
/s/ E. Thomas Fitzgerald
/s/ Christopher M. Murray