

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICKEY ODALE NANCE,

Defendant-Appellant.

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UNPUBLISHED  
December 2, 2003

No. 241077  
Oakland Circuit Court  
LC No. 01-179878-FH

Before: Murray, P.J., and Gage and Kelly, JJ.

PER CURIAM.

Defendant was charged with first-degree home invasion, MCL 750.110a(2), and felonious assault, MCL 750.82. Following a jury trial, he was convicted of the home invasion charge but acquitted of the assault charge. He was sentenced as an habitual offender, fourth offense, MCL 769.12, to 6 ½ to 25 years in prison. He appeals as of right and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the trial court erred in refusing to permit defense counsel to cross-examine the victim, Terry Baker, about a letter she had written to defendant two months after the incident. The trial court's ruling regarding the admission of evidence is reviewed for an abuse of discretion. *People v Hine*, 467 Mich 242, 250; 650 NW2d 659 (2002).

During trial the prosecutor objected to the relevance of defense counsel's questioning of the victim regarding a letter she wrote to defendant after the incident. A bench conference was held, but nothing reveals what was said during this conference. Thus, the record is unclear as to why defense counsel cross-examination was not pursued. However, we will assume that his objection was not waived. See *People v Carter*, 462 Mich 206; 612 NW2d 144 (2000). To the extent defendant contends the jury was entitled to know that Baker had written him a letter after the incident, we find no error. Baker testified that she did write such a letter.

To the extent defendant contends he should have been allowed to cross-examine Baker about something in the letter relating to her drug abuse, we find that any error does not require reversal.<sup>1</sup> There was no dispute that defendant broke Baker's bedroom window trying to get into

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<sup>1</sup> Although defendant did not make an offer of proof as required by MRE 103(a)(2), the  
(continued...)

her apartment. Baker testified that defendant lunged through the window and grabbed her while making threats against her life. That testimony was corroborated by Baker's boyfriend, who was with her. One defense witness made contradictory statements as to whether defendant placed part of his body through the window, and defendant admitted that he could have done so but that he was too drunk to remember. Defendant was allowed to question Baker about drug abuse and impeached her through other means, eliciting testimony from her that she still loved defendant despite the incident, that she gave testimony at the preliminary exam which favored defendant's defense of intoxication despite her attempt to downplay his intoxication at trial, that she had falsely accused defendant of domestic violence in the past, and that she had told the police that defendant cut her boyfriend. Defendant himself testified that Baker had a drug problem and that he saw her smoking crack cocaine on the night in question. Under the circumstances, any error by the court in denying defendant the opportunity to cross-examine Baker further about her drug use was undoubtedly harmless. *People v Kelly*, 231 Mich App 627, 644-645; 588 NW2d 480 (1998).

To the extent defendant contends that he should have been permitted to cross-examine Baker about something else in the letter, we find that defendant has not established a right to relief. Due to his failure to make an offer of proof, MRE 103(a)(2), we are unable to conclude that there was any error which affected his substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *People v Hampton*, 237 Mich App 143, 154; 603 NW2d 270 (1999).

Affirmed.

/s/ Christopher M. Murray  
/s/ Hilda R. Gage  
/s/ Kirsten Frank Kelly

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(...continued)

statements on the record indicate that defense counsel wanted to pursue something related to Baker's alleged drug abuse and that was sufficient to preserve the issue. *People v Snyder*, 462 Mich 38, 42-43; 609 NW2d 831 (2000).