

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN ROBERT OLSZAK,

Defendant-Appellant.

UNPUBLISHED

June 10, 2004

No. 245013

Ogemaw Circuit Court

LC No. 01-001750-FH

Before: Sawyer, P.J., and Gage and Owens, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of resisting and obstructing a police officer, contrary to MCL 750.479, and was sentenced to twenty-four months' probation, including six months in jail, fines, and costs. He appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant claims error in the admission of references to other alleged assaults, bad acts, or contacts with police officers. In particular, he challenges the testimony of Troopers Boitel and Trammel that they were dispatched to take an "assault complaint," the testimony of Sergeant Cappell that he "had known" and "had contact" with defendant "for a long time," Deputy David's testimony that, on the way to the police station, defendant apologized to her for his behavior during a traffic stop, and Deputy David's mention that she found four teenagers in a bedroom of defendant's trailer who said they were scared and asked if the officer could "get us out of here." Defendant did not object to the admission of this evidence at trial. Evidence of character or a trait of character is generally inadmissible to show that a defendant behaved in conformity with it on a particular occasion. MRE 404(a); *People v Johnson*, 409 Mich 552, 558-559; 297 NW2d 115 (1980). However, references to other crimes or wrongs that occur in an attempt to present the full context of events are not objectionable. *People v Sholl*, 453 Mich 730, 741; 556 NW2d 851 (1996); *People v Delgado*, 404 Mich 76, 80; 273 NW2d 395 (1978). The evidence here was admissible under this theory. Further, none of the evidence was referred to in the prosecutor's closing argument.

Likewise, defendant was not deprived of the effective assistance of counsel by his attorney's failure to object to the evidence of other crimes or wrongs. There has been no showing that counsel's performance was defective and deprived defendant of a fair trial. *Strickland v Washington*, 466 US 668, 687; 104 S Ct 2052; 80 L Ed 2d 674 (1984); *People v Lloyd*, 459 Mich 433, 446; 590 NW2d 738 (1999). To show prejudice, the defendant must show

that, but for counsel's error, there is a reasonable likelihood that the result would have been different. *People v Shively*, 230 Mich App 626, 628; 584 NW2d 740 (1998). No such showing has been made here.

Affirmed.

/s/ David H. Sawyer
/s/ Hilda R. Gage
/s/ Donald S. Owens