STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED December 16, 2008
v	No. 281664 Wayne Circuit Court
TRISHAWN BROWN, Defendant-Appellant.	LC No. 07-010116-FC

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

PER CURIAM.

Following a jury trial, defendant was convicted of two counts of first-degree criminal sexual conduct (CSC I), MCL 750.520b(1)(e), three counts of second-degree criminal sexual conduct (CSC II), MCL 750.520c(1)(e), armed robbery, MCL 750.529, felonious assault, MCL 750.82, and larceny in a building, MCL 750.360. He was sentenced to concurrent prison terms of 19 years, two months to 23 years, four months for the CSC I and armed robbery convictions, eight to 15 years for the CSC II convictions, and one to four years for the felonious assault and larceny convictions. Defendant appeals as of right. We affirm defendant's convictions, but remand for resentencing on the armed robbery conviction and for correction of the judgment of sentence with respect to the CSC I convictions. This appeal has been decided without oral argument. MCR 7.214(E).

Testimony at trial established that defendant forced one victim to perform oral sex at knifepoint, that he orally and anally penetrated another victim, that he rubbed lotion on the first victim's breast and the second victim's vagina, and that he slapped the first victim, causing her mouth to bleed. Testimony further established that defendant went through the victims' purses and removed a debit card, bus card, social security card, and other identification. Defendant also demanded cash from the first victim, which she took from her pocket and gave to him. The victims' ordeal lasted approximately three hours. Defendant testified that the victims agreed to have sex with him for $30 each. He said he left without paying them, and suggested that this was their motive for lying.

Defendant first argues that he is entitled to a new trial because trial counsel rendered ineffective assistance by failing to object to the prosecutor's attempts to bolster the victims' credibility. We disagree.

In *People v Dobek*, 274 Mich App 58, 66; 732 NW2d 546 (2007), this Court stated:

> Defendant's claims of improper vouching lack merit given that the challenged comments reflected arguments from the facts and testimony that the witnesses at issue were credible or worthy of belief. *People v Howard*, 226 Mich App 528, 548; 575 NW2d 16 (1997). The prosecutor did not imply that she had some special knowledge that the witnesses were testifying truthfully. See *People v Bahoda*, 448 Mich 261, 276; 531 NW2d 659 (1995). A prosecutor may not make a factual statement to the jury that is not supported by the evidence, *People v Ackerman*, 257 Mich App 434, 450; 669 NW2d 818 (2003), but he or she is free to argue the evidence and all reasonable inferences arising from it as they relate to his or her theory of the case, *Bahoda*, *supra* at 282.

A prosecutor need not state inferences in the blandest possible terms. *Dobek*, *supra* at 66.

On redirect examination, the prosecutor asked the second victim if everything she had said was the truth and if she had told the jury anything that was not true. During closing argument, the prosecutor asserted that in order to believe defendant, the jurors would have to disbelieve the victims' testimony. The prosecutor stated that disbelieving the victims would require a belief (1) that they were evil enough to make this up, (2) that they were sophisticated enough to make up a story and consistently keep it straight over time when relayed to different people, including the jurors, and (3) that they were "terrific actresses" if they were able to "bamboozle" so many others, including another judge in a prior proceeding. These comments did not imply that the prosecutor had any special knowledge of the victims' truthfulness. Instead, the comments were rationally based on the victims' testimony and demeanor at trial, and merely pointed out the incredibility of defendant's claim that the victims had lied for the purpose of exacting revenge. We perceive no prosecutorial misconduct, and counsel's failure to object to the comments therefore did not constitute ineffective assistance. *People v Mack*, 265 Mich App 122, 130; 695 NW2d 342 (2005).

Defendant next argues that he is entitled to correction of the judgment of sentence. We agree.

At sentencing, the trial court imposed a sentence of 135 months to 280 months for the CSC I convictions, but the judgment of sentence and amended judgment of sentence reflected a sentence of 19 years, two months to 23 years, four months for those convictions. The judgment must be corrected to show a minimum sentence of 11 years, three months for the CSC I convictions. Defendant also points out that the trial court did not impose a sentence for the armed robbery conviction at the sentencing hearing.[1] This error must be addressed on remand. Finally, the prosecutor asserts that the judgment incorrectly reflects only two CSC I convictions when there were in fact three CSC I convictions. However, following the jury verdict, the court directed a verdict of acquittal on one count of CSC I. This aspect of the judgment is therefore correct.

[1] Notwithstanding this omission, the judgment of sentence reflected the same sentence for the armed robbery conviction as was imposed for the CSC I convictions.

We affirm defendant's convictions, but remand for resentencing on the armed robbery conviction and for correction of the judgment of sentence consistent with this opinion. We do not retain jurisdiction.

/s/ Mark J. Cavanagh
/s/ Kathleen Jansen
/s/ Patrick M. Meter