

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CRAIG WILLIAM ADAMS,

Defendant-Appellant.

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UNPUBLISHED

March 10, 2009

No. 283247

Shiawassee Circuit Court

LC No. 07-006043-FH

Before: Donofrio, P.J. and K.F. Kelly and Beckering, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of receiving or concealing a stolen automobile, MCL 750.535(7). The trial court sentenced defendant as a third habitual offender, MCL 769.11, to 27 months to ten years in prison. Defendant appeals as of right and we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

**I. Background**

The prosecuting attorney's theory of the case was that during the early morning hours of August 11, 2007, defendant and an accomplice stole a pickup truck from a driveway in Owosso. The defense maintained that the alleged accomplice stole the vehicle and then implicated defendant in the matter in order to avoid his own criminal responsibility.

At trial, the prosecuting attorney asked the officer if he knew defendant. The officer responded that the officer "had had prior dealings with [defendant]." That witness later added that he had determined that defendant was on parole. Defendant's alleged accomplice, when asked if he had known defendant before the incident at issue, replied that he had "seen him in jail one or twice and . . . at a bonfire a couple times." He also added that he was aware that defendant was on probation at the time. At the time the testimony was given, defense counsel did not object. However, counsel did request a mistrial at the resumption of trial the next morning, arguing that the witnesses in question had deliberately injected inadmissible and damaging testimony. The trial court denied the motion, characterizing the testimony as "inadvertent references" that did not arise repeatedly.

## II. Standards of Review

We review a trial court's evidentiary decisions for an abuse of discretion. *People v Martzke*, 251 Mich App 282, 286; 651 NW2d 490 (2002). An abuse of discretion occurs where the trial court chooses an outcome falling outside a "principled range of outcomes." *People v Babcock*, 469 Mich 247, 269; 666 NW2d 231 (2003). Because none of the testimony challenged on appeal drew any defense objections at trial, his claim is reviewed for plain error affecting defendant's substantial rights. See *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999). Reversal is proper only if the defendant is actually innocent or the error seriously affected the fairness, integrity, or public reputation of judicial proceedings. *Id.* We review a lower court's decision on a motion for a mistrial for an abuse of discretion. *People v Haywood*, 209 Mich App 217, 228; 530 NW2d 497 (1995). "A mistrial should be granted only for an irregularity that is prejudicial to the rights of the defendant, and impairs his ability to get a fair trial." *Id.* (citations omitted).

## III. Analysis

On appeal, defendant's sole argument is that the prosecuting attorney injected certain inadmissible and prejudicial testimony into the trial, and that the trial court erred in denying a motion for a mistrial based on the challenged testimony. Defendant argues that the prosecuting attorney thus "bombarded the jury" with testimony concerning defendant's history with the criminal justice system, thus depriving him of a fair trial. We disagree.

Evidence of uncharged bad acts is not admissible to prove a person's character in order to show behavior consistent with those other wrongs. MRE 404(b)(1). However, a jury is entitled to learn the "complete story" of the matter in issue. *People v Sholl*, 453 Mich 730, 742; 556 NW2d 851 (1996), quoting *People v Delgado*, 404 Mich 76, 83; 273 NW2d 395 (1978). Accordingly, "Evidence of other criminal acts is admissible when so blended or connected with the crime of which defendant is accused that proof of one incidentally involves the other or explains the circumstances of the crime." *Scholl, supra* at 742, quoting *State v Villavicencio*, 95 Ariz 199, 201; 388 P2d 245 (1964). Further, not every instance of mention before a jury of some inappropriate subject matter warrants a mistrial. Specifically, "an unresponsive, volunteered answer to a proper question is not grounds for the granting of a mistrial." *Haywood, supra*.

We note that the police officer's mention of defendant's being on probation caused the prosecuting attorney to ask the witness to "skip over," and the trial court to declare, "The last answer is ordered stricken from the record." Further, at the close of proofs, the trial court instructed the jury that it was not to consider testimony it had ordered stricken. "It is well established that jurors are presumed to follow their instructions." *People v Graves*, 458 Mich 476, 486; 581 NW2d 229 (1998). For these reasons, and assuming without deciding that defendant's probation status bore no permissible relationship to the matter at hand, we conclude that any error was well and timely cured.

Moreover, the officer's mention that he knew defendant from earlier dealings was not itself evidence of bad acts. It is not only the lawbreakers in society who have occasion to deal with the police. The prosecuting attorney's question about whether the officer had known defendant from before was a fair one designed to elicit the full story for the jury. The officer's benign affirmative response had minimal potential to introduce any unfair prejudice.

The alleged accomplice's testimony about having seen defendant in jail came in response to the question, "Prior to that night did you know [defendant]?" Although specifying jail as a place of acquaintance was gratuitous and put defendant in an unfavorable light, that aspect of the answer was volunteered and beyond the scope of the question actually asked. For those reasons, that minor irregularity did not warrant a mistrial. *Haywood, supra*.

When the accomplice testified that defendant had been driving the subject vehicle, but later, after having talked to the police, defendant asked the accomplice to drive instead, the prosecuting attorney asked why, and the witness replied that defendant may have been "nervous 'cause . . . I knew he was on probation or whatever." This was inquiry and response concerning the complete story that the jury was entitled to hear. Further, that defendant was on "probation or whatever" at the time says little about whether he was involved in stealing the vehicle in question, so the risk of unfair prejudice was minimal.

A criminal defendant is entitled to a fair trial, not a perfect one. *People v Mosko*, 441 Mich 496, 503; 495 NW2d 534 (1992). In this case, we conclude that the testimony of which defendant makes issue did not impair his ability to get a fair trial, *Haywood, supra*, and thus that the trial court did not abuse its discretion in denying the motion for a mistrial.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Kirsten Frank Kelly  
/s/ Jane M. Beckering