

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JACOB CARL VAUGHN,

Defendant-Appellant.

UNPUBLISHED
November 22, 2011

No. 299445
St. Joseph Circuit Court
LC No. 10-016332-FH

Before: JANSEN, P.J., and SAWYER and SHAPIRO, JJ.

SHAPIRO, J. (*concurring*).

I concur, but write separately to note my view that the trial court erred in reading the jury excerpts from case law to supplement the jury instructions in this case. The case law excerpts were not relevant to the determination of guilt and as the defendant points out on appeal, amounted to a variant of a “civic duty” appeal. See *People v Farrar*, 36 Mich App 294; 193 NW2d 363 (1971); *People v Gloria Williams*, 65 Mich App 753; 238 NW2d 186 (1975). Civic duty arguments are not permitted because they inject issues into the trial that are broader than the defendant’s guilt or innocence of the charge and may encourage jurors to convict the defendant in response to a social problem.

I do not, however, believe this error constitutes grounds for reversal as defendant waived the issue by not objecting to the instruction and by indicating satisfaction with the instructions immediately after they were given.

Defendant also asserts that the failure to object constitutes ineffective assistance of counsel. However, defense counsel may have elected not to object based on a tactical decision that there were references in the case law excerpt which were favorable to his client. Moreover, I do not believe that on this record we can reasonably conclude that had counsel objected the result of the trial would likely have been different.

Accordingly, I concur in the outcome of the case, but note my concern regarding explaining legislative policy concerns to the jury as part of the instructions.

/s/ Douglas B. Shapiro