

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHERYL CECILIA WOOLFORK,

Defendant-Appellant.

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UNPUBLISHED

February 3, 2005

No. 250593

Oakland Circuit Court

LC No. 02-187001-FH

Before: Zahra, P.J., and Neff and Cooper, JJ.

MEMORANDUM.

Defendant was convicted by a jury of resisting and obstructing a police officer, MCL 750.81d(1), and was sentenced to three months' probation. She appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that certain remarks made by the prosecutor during closing argument constituted an improper assertion of facts not in evidence by suggesting the possibility that, if she were acquitted, she might sue the police department. Defendant also asserts that the remarks improperly appealed to the jurors' "civic duty" by encouraging them to convict her to support the police department and to protect the "pocketbooks" of the taxpayers.

Contrary to defendant's statement that this issue was preserved by her motion for a mistrial, the bringing of such a motion when there was no objection to the remarks at the time they were made is untimely and does not preserve the issue for appeal. See *People v Kevorkian*, 248 Mich App 373, 432; 639 NW2d 291 (2001) (holding that a defendant must object to the prosecutor's allegedly improper comments in a timely fashion). Thus, review of this unpreserved issue is limited to whether it involved plain error affecting defendant's substantial rights. *People v Abraham*, 256 Mich App 265, 274; 662 NW2d 836 (2003).

There was no plain error in the challenged remarks by the prosecutor. Despite defendant's characterization of the remarks, they did not plainly intimate that defendant had or was considering bringing a civil suit based on the incident. Further, the remarks did not plainly encourage the jury to convict defendant as an expression of support for the police or to avoid the imposition of liability on the taxpayers in a separate civil suit. Rather, the prosecutor's remarks metaphorically characterized the defense case as involving largely an attack on the credibility of the police witnesses. Following the remarks, the prosecutor asserted several reasons to question the credibility of testimony alleging the use of inappropriate force by the police. A prosecutor

has “great latitude to argue the evidence and all inferences relating to his theory of the case.” *People v Thomas*, 260 Mich App 450, 456; 678 NW2d 631 (2004). The prosecutor’s remarks describing the defense case as having the feel of a civil suit against the police, which amounted to an introduction to his attack on the credibility of defense witnesses, was within the great latitude afforded a prosecutor in arguing his case.

Affirmed.

/s/ Brian K. Zahra  
/s/ Janet T. Neff  
/s/ Jessica R. Cooper