

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
April 26, 2011

v

ALTONNIE CARRINGTON,  
Defendant-Appellant.

No. 296811  
Oakland Circuit Court  
LC No. 2008-223007-FC

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Before: FORT HOOD, P.J., and TALBOT and MURRAY, JJ.

PER CURIAM.

Defendant appeals as of right his conviction for first-degree criminal sexual conduct, MCL 750.520b(1)(b)(ii). Defendant was sentenced as a habitual offender, third offense, MCL 769.11, to 5 to 30 years' imprisonment for first-degree criminal sexual conduct, with credit for 44 days. We affirm.

Defendant argues that the prosecutor improperly denigrated his credibility during closing arguments based on the prosecutor's personal opinion. We review defendant's unpreserved claim of prosecutorial misconduct for plain error that affected his substantial rights. *People v Thomas*, 260 Mich App 450, 453-454; 678 NW2d 631 (2004). "Prosecutors are typically afforded great latitude regarding their arguments and conduct at trial. They are generally free to argue the evidence and all reasonable inferences from the evidence as it relates to their theory of the case." *People v Unger*, 278 Mich App 210, 236; 749 NW2d 272 (2008). The prosecutor is also not required to state arguments in the blandest possible terms. *Id.* at 239. "A prosecutor may argue from the facts that a witness, including the defendant, is not worthy of belief." *People v Launsbury*, 217 Mich App 358, 361; 551 NW2d 460 (1996). "[C]redibility . . . is always an appropriate subject for the jury's consideration." *People v Coleman*, 210 Mich App 1, 8; 532 NW2d 885 (1995). However, "prosecutors should . . . refrain from denigrating a defendant with intemperate and prejudicial remarks. Such comments will be reviewed in context to determine whether they constitute error requiring reversal." *People v Bahoda*, 448 Mich 261, 282-283; 531 NW2d 659 (1995).

In this case, the prosecutor did not denigrate defendant with intemperate and prejudicial remarks. Rather, while using bold language, the prosecutor was simply arguing that defendant was not worthy of belief based on the circumstances and evidence, which was a completely appropriate argument. *Launsbury*, 217 Mich App at 361; *Coleman*, 210 Mich App at 8. The

prosecutor also argued that the jury had to judge credibility and should base its judgment on the facts and circumstances. *Unger*, 278 Mich App at 240; *Thomas*, 260 Mich App at 454; *Coleman*, 210 Mich App at 8. We conclude that the prosecutor's comments during closing arguments do not constitute plain error. *Thomas*, 260 Mich App at 453-454. In addition, defendant's substantial rights were not affected because there was ample evidence of defendant's guilt, and the trial court's jury instructions at the end of the trial were sufficient to preclude any prejudice that might have resulted from the prosecutor's remarks. *Bahoda*, 448 Mich at 281.

Defendant also argues that defense counsel was ineffective for failing to object to the comments. Because the prosecutor's statements were not improper, it follows that defense counsel was not ineffective for failing to object to the prosecutor's statements because such an objection by defense counsel would have been futile. *People v Milstead*, 250 Mich App 391, 401; 648 NW2d 648 (2002).

Affirmed.

/s/ Karen M. Fort Hood  
/s/ Michael J. Talbot  
/s/ Christopher M. Murray