

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EMERSON JOHN JONES, III,

Defendant-Appellant.

---

UNPUBLISHED

August 6, 1996

No. 171703

LC No. 93-066314-FH

Before: Sawyer, P.J., and Bandstra and M.J. Talbot,\* JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of forgery, MCL 750.248; MSA 28.445, uttering and publishing, MCL 750.249; MSA 28.446, and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to enhanced terms of four to twenty-one years' imprisonment for both the forgery and uttering and publishing convictions. He appeals as of right. We affirm.

The trial court's questioning of witnesses did not deprive defendant of a fair trial. The rules of evidence specifically allow the court to interrogate witnesses. MRE 614(b). The complained-of questions were posed in a neutral manner and simply clarified the testimony of various witnesses. *People v Davis*, 216 Mich App 47, 49-52; \_\_\_ NW2d \_\_\_ (1996); *People v Conyers*, 194 Mich App 395, 404-405; 487 NW2d 787 (1992). The fact that testimony elicited by the court's questions may have been damaging to defendant does not mean that the court improperly assumed the role of surrogate prosecutor. *Davis, supra* at 51.

Defendant correctly argues that certain questions and arguments by the prosecutor were improper. However, reversal is not required because any error could have been cured by a cautionary instruction and the prosecutor's conduct did not result in a miscarriage of justice to defendant. *People v Stanaway*, 446 Mich 643, 687; 521 NW2d 557 (1994); *People v Austin*, 209 Mich App 564, 570; 531 NW2d 811 (1995).

---

\* Circuit judge, sitting on the Court of Appeals by assignment.

We affirm.

/s/ David H. Sawyer  
/s/ Richard A. Bandstra  
/s/ Michael J. Talbot