

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GERALD IVAN STEEPE,

Defendant-Appellant.

UNPUBLISHED

January 17, 1997

No. 187832

Midland Circuit Court

LC No. 94-007416-FH

Before: McDonald, P.J., and Murphy and M.F. Sapala,* JJ.

PER CURIAM.

Defendant appeals as of right from his conviction by jury of driving while impaired, third offense, MCL 257.625(10)(c); MS 9.2325(10)(c). The trial court sentenced defendant to 120 days in jail. We affirm.

Defendant first argues that the trial court abused its discretion in not dismissing the charge against defendant because police officers attempted to intimidate a defense witness to prevent him from testifying favorably to defendant. We disagree. The witness, a former police officer who testified as a defense expert witness on blood alcohol testing, stated that he did not change his testimony or decide not to testify as a result of the alleged intimidation. Because there was no actual intimidation, defendant was not prejudiced, and a new trial is not necessary. *People v Pena*, 383 Mich 402, 405-406; 175 NW2d 767 (1970); *People v Stratton*, 64 Mich App 349, 352-353; 235 NW2d 778 (1975).

Defendant next argues that the trial court erred in admitting defendant's Breathalyzer test results because the testing officer did not keep proper records of this test in accordance with 1992 AACS 325.2655(1)(e), now 1994 AACS 325.2655(1)(e), as he did not enter the results of defendant's Breathalyzer test in a testing room log book. We disagree. 1994 AACS 325.2655(1)(e) requires, in relevant part, that prescribed records of Breathalyzer test results be maintained at the instrument location. The trial court did not abuse its discretion in admitting this evidence because, while a testing officer must observe all administrative rules when administering Breathalyzer tests as a prerequisite to

* Recorder's Court judge, sitting on the Court of Appeals by assignment.

their admission, *People v Boughner*, 209 Mich App 397, 398-399; 531 NW2d 746 (1995), trial testimony established that current Michigan State Police administrative rules do not require an individual log book entry for each Breathalyzer test -- individual test results are instead now entered into the Law Enforcement Information Network (LEIN) system.

Affirmed.

/s/ Gary R. McDonald

/s/ William B. Murphy

/s/ Michael F. Sapala