

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRALL D. FOSTER,

Defendant-Appellant.

UNPUBLISHED

April 4, 1997

No. 185320

Oakland Circuit Court

LC No. 94-134652-FH

Before: Jansen, P.J., and Reilly and W.C. Buhl*, JJ.

PER CURIAM.

Following a consolidated jury trial in which defendant was tried along with codefendant Donnie Ray White, defendant was convicted of one count of conspiracy to deliver 50 to 224 grams of cocaine, MCL 750.157a; MSA 28.354(1), and two counts of delivery of 50 to 224 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 1415(7401)(2)(a)(iii). Defendant was sentenced to consecutive sentences of ten to twenty years in prison on each count. We affirm.

This case involves two drug transactions which occurred in 1994. On July 21, 1994, undercover officer Andrew Wurm purchased 56.53 grams of cocaine from codefendant White. Wurm purchased an additional 59.61 grams of cocaine from White on July 25, 1994. Defendant was allegedly in partnership with White and acted as a middle-man with regard to both transactions.

On appeal, defendant contends that his custodial confession should have been suppressed because it was the product of a warrantless arrest. We disagree. Defendant does not dispute the fact that the police had probable cause to effectuate the arrest. The exclusionary rule was not intended to grant criminal suspects protection for statements made outside their premises where the police have probable cause to arrest the suspect for committing a crime. *New York v Harris*, 495 US 14; 110 S Ct 1640; 109 L Ed 2d 13, 17-18 (1990); *People v Dowdy*, 211 Mich App 562, 570; 536 NW2d 794 (1995).

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

Next, defendant contends that reversal is warranted because transcripts of telephone conversations surreptitiously recorded by Officer Wurm were provided to the jury before they were formally admitted into evidence. The record does not support this assertion. At the time the transcripts were allegedly disseminated, the jury had not yet been impaneled. At trial, the prosecutor asked the court's permission to pass the transcripts out to the jury. Before the tapes were played, the transcripts were properly introduced into evidence. Accordingly, defendant is not entitled to a new trial on this basis.

Finally, defendant argues that the prosecution failed to present sufficient evidence to support the delivery conviction with regard to the July 21, 1994, transaction. Once again, we disagree. One who procures, counsels, aids or abets in the commission of an offense may be convicted and punished as if he directly committed the offense. MCL 767.39; MSA 28.979; *People v Turner*, 213 Mich App 558, 568; 540 NW2d 728 (1995). "Aiding and abetting" describes all forms of assistance rendered to the perpetrator of a crime and comprehends all words or deeds which might support, encourage or incite the commission of a crime. *Turner, supra*, 213 Mich App 568.

In the instant case, defendant made an inculpatory statement to Officer Wurm following his arrest in which he admitted to having helped to arrange both transactions. Moreover, defendant and White indicated to Officer Wurm that they were partners and that Wurm could do business with either individual. During a recorded conversation, defendant discussed selling drugs to Wurm. Defendant was present during both transactions. Each time, defendant and "H," the alleged supplier, preceded White into the motel. When White returned to Officer Wurm's vehicle, he had cocaine in his possession. Thereafter, White sold cocaine to Wurm. Viewed in a light most favorable to the prosecution, we find that sufficient evidence existed to establish that defendant aided and abetted in the delivery of cocaine on both transactions.

Affirmed.

/s/ Kathleen Jansen
/s/ Maureen Pulte Reilly
/s/ William C. Buhl