

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMARR DEMOND LOYD,

Defendant-Appellant.

UNPUBLISHED

June 13, 1997

No. 171263

Saginaw Circuit Court

LC No. 93-007893-FC

Before: Corrigan, C.J., and Michael J. Kelly and Hoekstra, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of first-degree murder, MCL 750.316; MSA 28.548, felony murder, MCL 750.316; MSA 28.548, armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b(1); MSA 28.424(2)(1). Defendant was sentenced to life imprisonment without parole on the first-degree and felony murder convictions, ten to twenty-five years' imprisonment on the armed robbery conviction, and two years' imprisonment on the felony-firearm conviction, to be served consecutively and prior to the other sentences. Defendant appealed, and this Court remanded defendant's case to the trial court for a *Ginther*¹ hearing on his claim of ineffective assistance of counsel. While on remand, the trial court amended defendant's judgment of sentence, dismissing the armed robbery conviction and sentence as requested by defendant because it violated double jeopardy prohibitions.² We have now reviewed defendant's remaining claims on appeal in light of the *Ginther* hearing and we affirm.

Defendant's first claim on appeal is that the trial court erred in admitting his confession in violation of his right against self-incrimination. Specifically, defendant asserts that the police continued discussions with him in an effort to elicit a confession after he had invoked his right to counsel. We disagree.

Once an accused invokes his Fifth Amendment right to counsel, there can be no further interrogation without counsel present unless the accused initiates the conversation. See *Minnick v Mississippi*, 498 US 146; 111 S Ct 486; 112 L Ed 2d 489, 498 (1990). Here, defendant initiated the conversation with the police after he had invoked his right to counsel by asking the investigating

detectives about the evidence they had accumulated against him. After listening to the detectives explain their case, defendant voluntarily indicated he wished to waive his right to counsel and make a statement. Consequently, admission of defendant's confession at trial was proper.

Defendant next argues that the trial court erred in failing to sua sponte give an instruction regarding the testimony of a disputed accomplice. Defendant contends that his girlfriend, Dashwanda Montgomery, could have been charged as an accessory after the fact³ and on that basis the trial court should have sua sponte given the cautionary instruction addressing disputed accomplice testimony. However, defendant fails to cite any authority to support the claim that it was error to fail to sua sponte give that instruction where the only allegation was that the witness was an accessory after the fact. Therefore, we deem this issue abandoned on appeal, and decline to address it. *People v Piotrowski*, 211 Mich App 527, 530; 536 NW2d 293 (1995).

Finally, defendant argues that, based upon the errors alleged on appeal, his trial counsel's performance was ineffective. Because neither of defendant's alleged claims of error is meritorious, defendant is not entitled to relief on this basis.

Affirmed.

/s/ Maura D. Corrigan

/s/ Michael J. Kelly

/s/ Joel P. Hoekstra

¹ *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1973).

² It appears from the amended judgment of sentence that defendant's felony murder conviction was also vacated.

³ Defendant, in his original brief, argued that his girlfriend was an accomplice; however, in the supplemental brief filed after the *Ginther* hearing, defendant concedes that, at best, the girlfriend was an accessory after the fact.