

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD M. ATTEE,

Defendant-Appellant.

UNPUBLISHED

July 1, 1997

No. 170715

Grand Traverse Circuit Court

LC No. 92-006103-FH

Before: Gage, P.J., and McDonald and Fitzgerald, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of delivery of a controlled substance, MCL 333.7401(2)(c); MSA 14.15(7401)(2)(c), and conspiracy to deliver a controlled substance, MCL 750.157a; MSA 28.354(1); MCL 333.7401(2)(c); MSA 14.15(7401)(2)(c). The conviction stemmed from defendant selling approximately two pounds of marijuana to Edmund Mendes, a confidential informant who was working at the time with the Traverse Narcotics Team (TNT). Defendant was sentenced to two concurrent terms of twenty-four to forty-eight months in prison. We affirm.

Defendant argues that the trial court erred in denying his motion to dismiss the charges against him on the basis of entrapment. “[E]ntrapment occurs if the police either engage in impermissible conduct that would induce a law-abiding person situated similarly to the defendant to commit the crime or engage in conduct so reprehensible that it cannot be tolerated by a civilized society. Entrapment exists if either prong of this test is met.” *People v Williams*, 196 Mich App 656, 661; 493 NW2d 507 (1992). The defendant bears the burden of proving entrapment by a preponderance of the evidence. *People v Jamieson*, 436 Mich 61, 80; 461 NW2d 884 (1990). The trial court found that defendant’s version of events, which he argued showed that he was entrapped, “lacked the ring of truth” and ruled that defendant had failed to meet his burden of establishing entrapment.

On appeal, in support of his argument regarding both tests, defendant asserts the same factual allegations that he made below to demonstrate that the trial court erred in finding that he was not entrapped. In essence, defendant has ignored the trial court’s factual findings and argues that alleged

facts already determined by the trial court to “lack the ring of truth” demonstrate that he was entrapped. This Court gives deference to the trial court’s special opportunity to view the witnesses and judge the credibility of their testimony and will not reverse a factual finding unless it is clearly erroneous. *People v Hardin*, 184 Mich App 107, 109; 457 NW2d 347 (1990); MCR 2.613(C). Because defendant has failed to demonstrate that the trial court clearly erred in finding defendant’s testimony unbelievable, his argument is not persuasive.

Defendant also claims that the trial court erred by discrediting his and Mendes’ testimony and failing to give credence to those portions of their testimony that were consistent with each other. However, defendant fails to identify which portions were consistent and further fails to cite any authority to support this allegation of error. Arguments made without the support of cited authority are deemed abandoned on appeal. *In re Powers*, 208 Mich App 582, 588; 528 NW2d 799 (1995).

Defendant also argues that the trial court misapplied the first prong of Michigan’s entrapment test by focusing on whether he was a law-abiding citizen rather than on whether Mendes’ conduct would induce a law-abiding citizen in defendant’s circumstances to commit the crime. We disagree. Consideration must be given to the willingness of the accused to commit the act and this must be weighed against how a normally law-abiding person would react to the same or similar circumstances. *People v Fabiano*, 192 Mich App 523, 537; 482 NW2d 467 (1992). Our review of the court’s comments demonstrates that the court’s determination was not based on a finding that defendant was not a law-abiding citizen. Rather, the court properly considered defendant’s willingness to commit the crime and properly weighed this against how it conceived that a normal law-abiding person would react in the same circumstances.

Affirmed.

/s/ Hilda R. Gage

/s/ Gary R. McDonald

/s/ E. Thomas Fitzgerald