

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY ANDREW STRUZYK,

Defendant-Appellant.

UNPUBLISHED

December 16, 1997

No. 193527

Oakland Circuit Court

LC No. 95-140512 FH

Before: O’Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Defendant was convicted of possession of less than twenty-five grams of cocaine, MCL 333.7403(1) and (2)(a)(v); MSA 14.15(7403)(1) and (2)(a)(v), and sentenced to an enhanced term of imprisonment of four to eight years, reflecting defendant’s status as a repeat drug offender, MCL 333.7413; MSA 14.15(7413). Defendant appeals as of right. We affirm.

On the record before us, it appears that the trial court abused its discretion when it admitted evidence of defendant’s prior drug convictions. *People v Catanzarite*, 211 Mich App 573, 579; 536 NW2d 570 (1995). The record does not specify whether defendant’s prior conviction for conspiracy to deliver cocaine involved crack cocaine or powdered cocaine. Moreover, the nature of the “narcotics” involved in defendant’s other prior conviction is not specified in the record. Absent any specificity and substantially greater justification concerning these prior convictions, the existence of defendant’s prior drug convictions fails to demonstrate defendant’s familiarity with powdered cocaine. See e.g., *Id.* at 578-580. Instead, the prior convictions only establish that defendant may have possessed cocaine in this case because he possessed a controlled substance or substances in the past, a purpose prohibited under MRE 404(b). *Catanzarite*, *supra* at 580.

Nevertheless, reversal is unwarranted. We conclude that no reasonable probability exists that the erroneously admitted evidence affected the outcome of trial in light of the strength of the evidence against defendant. *People v Sabin*, 223 Mich App 530; 566 NW2d 677 (1997).

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

Defendant's sentence does not violate the principle of proportionality in light of defendant's extensive criminal record, his failure to take advantage of the rehabilitative opportunities offered him and his status as a parolee at the time of the commission of the instant offense. *People v Hansford (After Remand)*, 454 Mich 320; 562 NW2d 460 (1997); *People v Spicer*, 216 Mich App 270, 276; 548 NW2d 245 (1996); *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994).

Affirmed.

/s/ Peter D. O'Connell

/s/ Helene N. White

/s/ Carole F. Youngblood