

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GEORGE AGUSTIS ZAPANTIS, a/k/a NICK
SANTANGELO

Defendant-Appellant.

UNPUBLISHED

February 10, 1998

No. 196672

Macomb Circuit Court

LC No. 95-002212 FH

Before: Gage, P.J., and Murphy and Reilly, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction of receiving and concealing stolen property over \$100, following which he was adjudicated a fourth offender. He presents two unpreserved issues for review and acknowledges that, consequently, appellate relief may be afforded him only if manifest injustice occurred. *People v Stanaway*, 446 Mich 643, 686-687; 521 NW2d 557 (1994); *People v Kelly*, 423 Mich 261; 378 NW2d 365 (1985). This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Since at the time of arrest one of defendant's companions referred to him as "Nick," and defendant gave the arresting officer the name "Nick Santangelo," it was proper for the prosecutor to adduce evidence that "Nick Santangelo" was defendant's alias. *People v Griffis*, 218 Mich App 95, 98-99; 553 NW2d 642 (1996). As there was no error in this respect, there was certainly no manifest injustice.

Defendant contends that the trial court erred in instructing the jury that the prosecution had established that defendant possessed the property at issue, depriving defendant of the opportunity to have the jury pass on that question. This argument represents an attempt to review the instructions out of context. The trial court instructed the jury, twice, concerning the elements of the crime. The first two elements were that defendant possessed the property at issue and that such property had been stolen. In providing more detailed instructions on the third element of the crime, that defendant knew the property was stolen, the court referred to "defendant's possession." The jury could not have been

misled into thinking that the court was countermanding its prior instructions; rather, reasonable jurors could only have understood that if they had first determined the prosecution had proved, beyond a reasonable doubt, that defendant both possessed the property at issue and that it was stolen, they would then focus their attention on defendant's knowledge regarding the provenance of the property possessed. Again, the instruction was not at all erroneous, but if there was error, it did not rise to the level of manifest injustice.

Affirmed.

/s/ Hilda R. Gage

/s/ William B. Murphy

/s/ Maureen Pulte Reilly