

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWIGHT FORD,

Defendant-Appellant.

UNPUBLISHED

May 8, 1998

No. 198354

Recorder's Court

LC No. 96-501789 FY

Before: Neff, P.J., and White and D. A. Teeple,* JJ.

MEMORANDUM.

In the instant case, defendant was charged with kidnapping, MCL 750.349; MSA 28.581, armed robbery, MCL 750.529; MSA 28.797, second-degree criminal sexual conduct, MCL 750.520c(1)(c); MSA 28.788(3)(1)(c), and unlawfully driving away a motor vehicle, MCL 750.413; MSA 28.645. This case was consolidated for trial purposes with another lower court action (docket no. 95-522378), in which defendant was charged with breaking and entering, MCL 750.110; MSA 28.305, felony-firearm, MCL 750.227b; MSA 28.424(2), and fourth offender status, MCL 769.12; MSA 28.1084. All of the charges against defendant arose from the same criminal transaction. A Recorder's Court jury convicted defendant in this case of kidnapping, unarmed robbery, MCL 750.530; MSA 28.798, and UDAA, but acquitted him of CSC-II. The jury convicted defendant in the other action of entering without breaking, MCL 750.111; MSA 28.306, but acquitted him of felony-firearm. Defendant subsequently pleaded guilty to second offender status, MCL 769.10; MSA 28.1082. The trial court sentenced defendant to twenty to forty years' imprisonment on the kidnapping conviction, to ten to fifteen years' imprisonment on the unarmed robbery conviction, to three to five years' imprisonment on the UDAA conviction and to three to five years' imprisonment on the entering without breaking conviction. The court then vacated these sentences and imposed one enhanced sentence of twenty to forty years' imprisonment, reflecting defendant's second felony offender status. Defendant appeals as of right. We affirm.

Defendant argues that the prosecutor impermissibly circumvented MCL 766.4; MSA 28.922, which entitles a person charged with a felony to a preliminary examination within fourteen days of an

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

arraignment on a felony charge, by filing the instant criminal action after defendant had already waived a preliminary examination in the first action and, thereby, permitting defendant to receive a preliminary examination on the new charges more than fourteen days after arraignment on the initial information. Defendant's argument is premised on a belief that the prosecutor had to charge all possible offenses arising from the June 29 transaction in the initial information and lacked authority to charge additional offenses arising from the same criminal transaction in a second information and then consolidate both criminal actions for trial. Defendant fails to provide legal authority to support his underlying premise and, therefore, he has abandoned appellate review of his claim by failing to adequately brief his appellate challenge. *People v Kent*, 194 Mich App 206, 210; 486 NW2d 110 (1992).

Defendant also argues that he was deprived of his right to a speedy trial because more than 2-1/2 years passed between defendant's arraignment on the charges in the first case and his trial on the instant charges. Defendant did not raise this issue below. Consequently, the record lacks adequate development to ascertain the merits of defendant's claim. Additionally, defendant failed to adequately brief this issue by failing to argue the facts necessary to substantiate his claim. Under these circumstances, defendant has abandoned this issue on appeal. *Kent*, 194 Mich App 210.

Affirmed.

/s/ Janet T. Neff
/s/ Helene N. White
/s/ Donald A. Teeple