STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

      Plaintiff-Appellee,

v

TOMMY L. PRATT,

      Defendant-Appellant.

UNPUBLISHED
April 18, 2000

No. 212116
Wayne Circuit Court
Criminal Division
LC No. 97-002654

Before: Cavanagh, P.J., and Sawyer and Zahra, JJ.

PER CURIAM.

Defendant was convicted by a jury of six counts of armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant as an habitual offender, third offense, MCL 769.11; MSA 28.1083, to six concurrent terms of fifteen to thirty years' imprisonment for each armed robbery conviction, and the mandatory consecutive term of two years' imprisonment for the felony-firearm conviction. Defendant appeals as of right. We affirm.

I

Defendant claims that the trial court improperly limited defense counsel's closing argument, thereby preventing counsel from arguing that one of the robbery victims failed to identify him in a police lineup and that another victim's lineup identification was only tentative. Ordinarily, we review limitations placed on closing argument for an abuse of discretion. See *People v Edwards*, 55 Mich App 256, 264; 222 NW2d 203 (1974). Here, however, we find that the record does not support defendant's assertion that counsel's argument was limited as he claims.[1]

From our review of the transcript, it is apparent that the trial court sustained only the prosecutor's specific objection to any reference by defense counsel to excluded evidence regarding a lineup identification by an individual who was not one of the alleged robbery victims. We find no basis for concluding that the trial court precluded defense counsel from presenting arguments regarding the identifications made or not made by the robbery victims during the lineups.[2] If defense counsel had specifically attempted to make such arguments, and the trial court then refused to allow them,

defendant's claim would have merit. However, we reject defendant's attempt to transform the trial court's ruling in response to the prosecutor's specific objection into a broader ruling.

II

Defendant next claims that the jury instruction on the felony-firearm charge was fatally deficient because it did not define a firearm as set forth in MCL 8.3t; MSA 2.210(20). We conclude that this unpreserved issue affords no basis for relief because defendant has not shown a plain error affecting his substantial rights. See *People v Carines*, 460 Mich 750, 774; 597 NW2d 130 (1999). In any case, defendant failed to argue that the article described by the witnesses did not constitute a firearm, and this Court has specifically held that a trial court is not required to give an instruction defining a firearm for purposes of a felony-firearm charge when the defendant never argued that the object in question was not a firearm. See *People v Hunt*, 120 Mich App 736, 742; 327 NW2d 547 (1982).

III

Finally, defendant claims that the trial court's denial of his oral motion to wear civilian clothes constitutes error requiring reversal. We disagree. Giving deference to the trial court's opportunity to observe defendant's clothing, which the court did not believe would be recognized as jail garb, we conclude that defendant was not denied a fair trial. See *People v Harris*, 201 Mich App 147, 152-153; 505 NW2d 889 (1993). Furthermore, the trial court did not abuse its discretion by refusing to adjourn trial until defendant could acquire other clothes. See *id*.

Affirmed.

/s/ Mark J. Cavanagh
/s/ David H. Sawyer
/s/ Brian K. Zahra

[1] Although the prosecution speculates that the trial transcript may be incomplete, we have assumed for purposes of our review that the transcript is accurate. While not unassailable, there is a presumption that certified records of proceedings are regular. See *People v Abdella*, 200 Mich App 473, 475; 505 NW2d 18 (1993).

[2] We note that defense counsel did not respond to the prosecutor's objection.