

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES HARVEY LEE,

Defendant-Appellant.

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UNPUBLISHED

May 2, 2000

No. 213037

Washtenaw Circuit Court

LC No. 97-008598-FH

Before: Wilder, P.J., and Sawyer and Markey, JJ.

MEMORANDUM.

Defendant appeals by right his conviction after a jury trial of attempted resisting and obstructing a police officer. MCL 750.479; MSA 28.747. We affirm.

Defendant was charged with fleeing and eluding and attempted resisting and obstructing after police officers attempted to arrest him after a traffic incident. Defendant argues that he was unlawfully arrested at his home without a warrant, and the jury was not properly instructed as to the illegality of his arrest. We disagree.

Defendant failed to object to the jury instructions. A party must object to a given jury instruction to preserve the issue for appellate review. *People v Cross*, 202 Mich App 138, 148; 508 NW2d 144 (1993). Our review of this issue is limited to whether defendant has established a plain error that affected his substantial rights. *People v Carines*, 460 Mich 750, 761-764, 774; 597 NW2d 130 (1999). In this case, the court instructed the jury that defendant's arrest must be lawful in order to find him guilty. No plain (i.e., clear or obvious) error occurred that affected defendant's substantial rights (i.e., prejudiced defendant). *Id.* at 763.

Where a defendant is charged with resisting arrest, the lawfulness of the arrest is a question of fact for the jury. *People v Dalton*, 155 Mich App 591, 598; 400 NW2d 689 (1986). A peace officer has statutory authority to arrest without a warrant if the officer has reasonable cause to believe that a felony has been committed and that the person the officer seeks to arrest committed the felony. *Id.*; MCL 764.15; MSA 28.874. Sufficient evidence was presented to

allow the jury to find that the arrest was legal. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). There is no basis for setting aside the jury's verdict.

We affirm.

/s/ Kurtis T. Wilder  
/s/ David H. Sawyer  
/s/ Jane E. Markey