

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTOPHER GLENN CLARK,

Defendant-Appellant.

UNPUBLISHED

June 20, 2000

No. 212880

Wayne Circuit Court

Criminal Division

LC No. 97-006769

Before: Hoekstra, P.J., and Holbrook, Jr. and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right from his convictions of two counts of armed robbery, MCL 750.529; MSA 28.797, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), entered after a jury trial. We affirm.

Complainants, the victims of an armed robbery, identified defendant as the perpetrator. Complainants testified that defendant identified himself to them as “Eastside.” Over defendant’s objection, the investigating officer testified that after he telephoned numbers called from the cellular telephone taken from complainants, he received an anonymous telephone call implicating defendant in the robbery and identifying defendant as “Eastside.” In addition, the officer testified that he observed a tattoo of the word “Eastside” on defendant’s chest. The court required defendant to display his chest to the jury. The jury convicted defendant as charged.

The decision to admit evidence is within the discretion of the trial court. *People v Starr*, 457 Mich 490, 494; 577 NW2d 673 (1998), reh den 459 Mich 1203 (1998). Reversible error cannot be predicated on an evidentiary ruling unless a substantial right was affected by the ruling. MCL 769.26; MSA 28.1096; MRE 103(a); *People v Travis*, 443 Mich 668, 686; 505 NW2d 563 (1993). Whether a preserved nonconstitutional error is harmless depends on the nature of the error and its effect on the reliability of the verdict in light of the weight of the untainted evidence. *People v Mateo*, 453 Mich 203, 215; 551 NW2d 891 (1996). An error justifies reversal if it is more likely than not that it affected the outcome. *People v Lukity*, 460 Mich 484, 493, 495; 596 NW2d 607 (1999). A conviction should be affirmed notwithstanding the existence of a nonstructural constitutional error if the

error was harmless beyond a reasonable doubt. *People v Graves*, 458 Mich 476, 482; 581 NW2d 229 (1998).

Defendant argues that he was denied due process and his constitutional right to confrontation for the reason that the trial court's admission of hearsay evidence linking him to the nickname "Eastside" made the anonymous caller an adverse witness who was not subject to cross-examination. US Const, Am VI; Const 1963, art 1, § 20. We hold that any error was harmless. The jury observed the tattoo of the word "Eastside" on defendant's chest. Defendant does not contend that the trial court's decision to require him to display his chest was an abuse of discretion. Moreover, both complainants testified that defendant identified himself as "Eastside." This testimony, if believed, linked defendant to the nickname. Any error resulting from the admission of the testimony regarding the anonymous tip was harmless because other, properly admitted evidence conclusively linked defendant to the nickname. *Lukity, supra; Graves, supra*.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra