STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED October 10, 2000
v	No. 219455 Ingham Circuit Court
KEITH LAMONT NETTLES, Defendant-Appellant.	LC No. 98-073277-FH

Before: Talbot, P.J., and Hood and Gage, JJ.

PER CURIAM.

Defendant was convicted, following a jury trial, of various offenses.[1] He received sentences varying from twelve months for the marijuana conviction to 10 to 20 years, some consecutive, on the felony convictions. He appeals as of right, and we affirm.

A confidential informant, facing several outstanding felony warrants for assorted crimes,, grew tired of being "on the run" and called "Crimestoppers." The informant offered to assist officers by identifying drug dealers, in an attempt to avoid a life sentence. The informant participated in two controlled buys with an individual named Bashid White, defendant's relative. After the two buys, the informant, with the assistance of Officer Traci Ruiz, arranged to purchase three ounces of cocaine from White. Officers had the area of the controlled buy under surveillance. Two officers were in a white Suburban when defendant and White pulled into a parking space next to them. One officer turned his cap containing the word "police" around to avoid detection. Defendant watched the officers' vehicle while White used a pay phone to contact the informant. After a few minutes, defendant got out of the car, approached White, and pointed at the white Suburban. White told the informant that he did not

[1] The judgment of sentence provides that defendant was convicted of possession with intent to deliver 50 to 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401) (2)(a)(iii), conspiracy to possess with intent to deliver 50 to 225 grams of cocaine, MCL 750.157a; MSA 28.354(1), "possession of less than 50 grams of cocaine, MCL 333.7401(1)(2)(a)(iv)," and possession of marijuana, MCL 333.7403(2)(d); MSA 14.15(7403)(2)(d). On appeal, defendant does not take issue with the judgment of sentence. Accordingly, we need not address it.

like the setting and moved the transaction to a nearby McDonald's parking lot. Defendant and White proceeded to the parking lot. White entered the vehicle containing the informant and Officer Ruiz. He handed packages of cocaine to the informant. The packages were handed to Officer Ruiz who drew a scale from her pocket to weigh the packages. Officer Ruiz was wearing a "wire" and alerted nearby officers that the drop had occurred. Defendant and White were arrested. Marijuana and cocaine were found on defendant's person. Defendant testified at trial that he was asleep and had no knowledge of the drug transactions.

Defendant first argues that the trial court erred in allowing prejudicial similar acts evidence to be presented to the jury in violation of MRE 404(b). We disagree. A party opposing the admission of evidence must timely object at trial and specify the same ground for objection that is raised on appeal. *In re Weiss*, 224 Mich App 37, 39; 568 NW2d 336 (1997). A timely objection is interposed between the question and the answer. *Id*. Review of the record reveals that the informant testified that she had observed defendant involved in other drug transactions. Defense counsel timely objected at this time, but did not object based on MRE 404(b). Later, during redirect examination, the informant testified again regarding defendant's involvement in other drug activities. The prosecutor then inquired regarding the informant's knowledge of the amount of crack cocaine contained in an ounce. At that time, defense counsel objected to the earlier testimony. Again, defense counsel did not identify MRE 404(b) as the basis for his objection. After the informant was excused and the jury was released for the day, the trial court sua sponte noted that the prosecutor should have given notice under MRE 404(b) regarding other acts evidence and inquired whether defense counsel would like a limiting instruction. Review of the record reveals that this issue is not preserved for review because the objection was not timely and did not identify MRE 404(b) as the basis for the objection. *Weiss, supra*. However, even if this issue were properly preserved, we would find no abuse of discretion in the trial court's admission of the testimony. *Id*.

Defendant next argues that he was denied a fair trial when the informant testified that she had taken and passed a polygraph examination. We disagree. Again, to preserve an evidentiary issue for review, the party opposing the admission of evidence must timely object on the record and state the specific ground of objection. MRE 103(a)(1); *People v Grant*, 445 Mich 535, 545; 520 NW2d 123 (1994). During cross-examination, the informant was asked if the quality of the information she provided to police determined her value to the police. The informant stated that she could not answer the question, but mentioned that she took a lie detector test.[2] Defense counsel did not object to the nonresponsive answer, and in fact, then asked if "it gets to your truthfulness here today?" The trial court sua sponte held a conference at the bench and included the informant in the conference. Because defense counsel did not object to the testimony and request that it be stricken, this issue is not preserved for review. *Id*. In any event, an inadvertent, unsolicited mention by a witness that a polygraph was administered does not require a mistrial. *People v Ortiz-Kehoe*, 237 Mich App 508, 514; 603 NW2d 802 (1999). See also *People v Kosters*, 175 Mich App 748, 754; 438 NW2d 651 (1989) ("a brief, inadvertent reference to a polygraph is harmless.") Accordingly, defendant's argument is without merit.

[2] Review of the record reveals that the informant indicated that she took a test, but never specifically stated that she passed the lie detector test.

Defendant next argues that the trial court erred in denying defendant's motion for a directed verdict of the delivery and conspiracy charges when insufficient evidence was presented. We disagree. The evidence, viewed in a light most favorable to the prosecution, was sufficient to the extent that a rational trier of fact could find the essential elements of the charges were proved beyond a reasonable doubt. *People v Mayhew*, 236 Mich App 112, 126; 600 NW2d 370 (1999).

Affirmed.

/s/ Michael J. Talbot
/s/ Harold Hood
/s/ Hilda R. Gage