

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEON DARRELL LINDSEY,

Defendant-Appellant.

UNPUBLISHED

September 21, 2001

No. 223842

Saginaw Circuit Court

LC No. 99-016867-FC

Before: Cavanagh, P.J. and Markey and Cooper, JJ.

MEMORANDUM.

Defendant was convicted by a jury of possession of less than 25 grams of cocaine, MCL 333.7403(2)(a)(v), possession of marijuana, MCL 333.7403(2)(d), being a felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. He appeals as of right and we affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues for the first time that his convictions and sentences for felon in possession of a firearm and felony-firearm constitute multiple punishments for the same offense in violation of the double jeopardy provisions of the United States and Michigan Constitutions, US Const, Am V; Const 1963, art 1, § 15. To avoid forfeiture of this unpreserved constitutional issue on appeal, defendant must show that plain error occurred, affecting his substantial rights. *People v Carines*, 460 Mich 750, 762-763, 774; 597 NW2d 130 (1999); *People v Wilson*, 242 Mich App 350, 359-360; 619 NW2d 413 (2000). Defendant has failed to establish such error.

The precise issue raised was recently addressed in *People v Dillard*, 246 Mich App 163; 631 NW2d 755, where a panel of this Court held that convictions and sentences for both felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b, do not constitute a double jeopardy violation. The *Dillard* opinion is

binding precedent under MCR 7.215(I) and we agree with that panel's analysis and conclusion. Accordingly, we affirm defendant's convictions and sentences.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Jane E. Markey

/s/ Jessica R. Cooper