

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MEREDITH MICHAEL HUBBARD,

Defendant-Appellant.

UNPUBLISHED

March 25, 2004

No. 244122

Wayne Circuit Court

LC No. 01-013572-01

Before: Zahra, P.J., and Saad and Schuette, JJ.

MEMORANDUM.

Defendant appeals as of right from jury convictions of attempted breaking and entering a building, MCL 750.92; MCL 750.110, and breaking and entering a motor vehicle causing damage, MCL 750.356a(3), for which he was sentenced as an habitual offender, fourth offense, MCL 769.12, to concurrent terms of forty-six months to fifteen years in prison. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first contends that the trial court erred when it imposed a minimum sentence in excess of the guidelines range without stating a reason for departure. Defendant has failed to explain what the proper guidelines range was or how the minimum sentence of forty-six months exceeded the guidelines. Because he has not adequately briefed the merits of the issue, it is deemed abandoned. *People v Kent*, 194 Mich App 206, 210; 486 NW2d 110 (1992). Moreover, defendant raised this same issue in a postjudgment motion and conceded at the hearing that there had been no error. Having conceded the issue below, defendant cannot claim error on appeal. *Living Alternatives for the Developmentally Disabled, Inc v Dep't of Mental Health*, 207 Mich App 482, 484; 525 NW2d 466 (1994).

Defendant next contends that he was denied his due process rights because the prosecutor improperly introduced evidence of his use of an alias. Because defendant failed to object to the evidence at trial or to the prosecutor's argument, the issue has not been preserved for appeal. MRE 103(a)(1); *People v Aldrich*, 246 Mich App 101, 110, 113; 631 NW2d 67 (2001). Defendant therefore is not entitled to relief absent a showing of plain error that affected the outcome of the trial. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

The prosecutor questioned defendant about his use of an alias at the time of his arrest. This was not improper because it was relevant to defendant's credibility. *People v Messenger*, 221 Mich App 171, 180; 561 NW2d 463 (1997); *People v Albert Thompson*, 101 Mich App 609,

613-614; 300 NW2d 645 (1980). Therefore, defendant has not shown plain error. Moreover, all witnesses to the offenses unequivocally identified defendant as the person who had tampered with the victim's car and the lock on the building; thus, it is unlikely that the outcome of the trial would have been different had the references to defendant's use of an alias been omitted.

Affirmed.

/s/ Brian K. Zahra

/s/ Henry William Saad

/s/ Bill Schuette