

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ADA MASON,

Defendant-Appellant.

UNPUBLISHED

September 14, 2004

No. 247207

Wayne Circuit Court

LC No. 02-008987

Before: Donofrio, P.J., and White and Talbot, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of possession of less than 25 grams of a controlled substance, MCL 333.7403(2)(a)(v). She was sentenced to probation for one year. Defendant appeals as of right, challenging the denial of her motion for a new trial, and we affirm.

Officer Salazar testified that while executing a narcotics search warrant, he observed defendant put a pill bottle into a purse that was beside her on a couch. Officer Campbell testified that inside the purse, he found 31 packets of heroin in a pill bottle bearing defendant's name. Defendant admitted that the pill bottle was originally hers, but claimed that she had previously given it to Lucille Hardy, who, unlike defendant, resided at the home where the raid was conducted. Defendant maintained that she was sitting in a chair, not on the couch, that there was no purse next to her on the chair, that she had not brought a purse to the home, and that Officer Salazar "lied, absolutely" when he said that she put a pill bottle into the purse.

Following trial, Officer Campbell was arrested, and it was alleged that he gave drugs obtained during narcotics raids to addicts in exchange for their agreement to be videotaped while using them, and then put the videotapes on a website and charged for viewing them. Defendant argues that the trial court erred in denying her motion for a new trial based on this newly discovered evidence.

Where newly discovered evidence would only be used for impeachment, it is not grounds for a new trial. *People v Davis*, 199 Mich App 502, 516; 503 NW2d 457 (1993). This evidence would not have had any impact on Officer Campbell's substantive testimony. Its only purpose would have been impeachment. Moreover, defendant would not have been able to establish that this new evidence would probably have caused a different result if she were retried. *People v Cress*, 468 Mich 678, 692; 664 NW2d 174 (2003). Campbell testified that the pill bottle in the

purse contained heroin. This was not disputed. Defendant simply denied that the purse was hers or that she had put the pill bottle in the purse, as Officer Salazar had testified. She maintained that Officer Salazar had lied; it is not probable that impeachment of Officer Campbell would have cast doubt on Officer Salazar's testimony.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot