

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN JAMES SNYDER,

Defendant-Appellant.

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UNPUBLISHED

November 29, 2007

No. 272542

Wayne Circuit Court

LC No. 05-010625-01

Before: Schuette, P.J., and Borrello and Gleicher, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial convictions of second-degree murder, MCL 750.317, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. Defendant was sentenced to concurrent prison terms of 40 to 80 years for the murder conviction and three to five years for the felon in possession conviction and a consecutive term of two years for the felony-firearm conviction. We affirm.

The prosecution presented evidence that defendant was known by the victim and others as “White Boy Johnny” and that the victim made a dying declaration to police that “White Boy Johnny” shot him. Additionally, members of the victim’s family testified that defendant and the victim were friends and the victim had no other Caucasian friends. Defendant’s trial counsel presented evidence that the victim was a drug dealer, leading the prosecution to establish that defendant and the victim had a drug dealing business relationship.

Defendant argues on appeal that his trial counsel was ineffective for soliciting the evidence that the victim was a drug dealer, thus “opening the door” to evidence of the business relationship between the two. To establish ineffective assistance of counsel, a defendant must establish that his counsel’s performance fell below an objective standard of reasonableness under prevailing professional norms, and that there is a reasonable probability that, but for counsel’s error, the result of the proceedings would have been different. *Strickland v Washington*, 466 US 668, 687; 104 S Ct 2052; 80 L Ed 2d 674 (1984). Because the trial court did not hold an evidentiary hearing, and this Court previously denied defendant’s motion to remand for a hearing, our review is limited to mistakes apparent on the record. *People v Williams*, 223 Mich App 409, 414; 566 NW2d 649 (1997).

Here, the evidence that the victim and defendant sold drugs together was admissible under MRE 404(b)(1)<sup>1</sup> even without defense counsel's questioning because it tended to provide a motive for the murder.

Further, the evidence that the victim was a drug dealer was helpful to the defense because it established that others might have had a motive to kill him. Defense counsel also presented an alibi defense for defendant as well as evidence that other Caucasian men called John or Johnny lived in the area of the shooting. Therefore, defense counsel's performance did not fall below an objective standard of reasonableness. *Strickland, supra* at 687.

Finally, defendant did not establish that there was a reasonable probability that, but for counsel's alleged error, the result of the proceedings would have been different. *Strickland, supra* at 687. Even without the evidence that defendant dealt drugs with the victim, the case against defendant was strong. The prosecution established that defendant was known by the victim and others as "White Boy Johnny" and that the victim named "White Boy Johnny" as his murderer to police. It is unlikely that the result of the proceedings would have been different without evidence that defendant and the victim sold drugs together.

Affirmed.

/s/ Bill Schuette  
/s/ Stephen L. Borrello  
/s/ Elizabeth L. Gleicher

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<sup>1</sup> MRE 404(b)(1) provides:

Evidence of other crimes, wrongs, or acts is not admissible to prove the character of a person in order to show action in conformity therewith. It may, however, be admissible for other purposes, such as proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident when the same is material, whether such other crimes, wrongs, or acts are contemporaneous with, or prior or subsequent to