

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TITUS EZAR ORR,

Defendant-Appellant.

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UNPUBLISHED

May 20, 2008

No. 277064

Emmet Circuit Court

LC No. 06-002614-FH

Before: Donofrio, P.J., and Sawyer and Murphy, JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial convictions for possession of marijuana, MCL 333.7403(2)(d), as a lesser included offense of possession with intent to deliver marijuana, MCL 333.7401(2)(d), and common law obstruction of justice, MCL 750.505. Defendant was sentenced to serve 12 months for the possession of marijuana conviction and 23 months to five years for the obstruction of justice conviction, with credit given for 163 days already served. We affirm. This case is being decided without oral argument under MCR 7.214(E).

Defendant's sole issue on appeal is that there was insufficient evidence to uphold his obstruction of justice conviction. We disagree. We review sufficiency of the evidence claims de novo, *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002), viewing all evidence in the light most favorable to the prosecutor to determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt, *People v Harmon*, 248 Mich App 522, 524; 640 NW2d 314 (2001). Conflicting evidence is resolved in favor of the prosecution. *Id.*

Defendant does not challenge that the evidence shows he repeatedly gave a false name to the police during a routine traffic stop that turned into a drug investigation. Defendant also concedes that at the time of the stop, two outstanding arrest warrants had been issued for him. He argues, however, that the evidence adduced was insufficient (1) because there is no evidence that he intended to obstruct the drug investigation and (2) because the jury was not given a specific unanimity instruction; his conviction is suspect because there is no way to know if some jurors concluded that he was attempting to evade arrest on one of the outstanding warrants while other jurors concluded he was attempting to evade arrest on the other.

Defendant's first argument is a red herring in that plaintiff's theory was that he was attempting to evade arrest on the outstanding warrants. As for his second assertion, defendant

affirmatively waived any challenge to the unanimity instruction given by indicating to the court through counsel that the jury instructions as given were acceptable. *Lueth, supra* at 688. Moreover, we conclude that defendant's attempt to subdivide into two segments the criminal process that was hindered misperceives both the nature of his actions and the character of the crime.

The common law crime of obstruction of justice is generally understood to address an interference with the orderly administration of justice. *People v Thomas*, 438 Mich 448, 455; 475 NW2d 288 (1991).

Obstruction of justice, however, is not a single offense, but a category of crimes that interfere with the public administration of justice. Thus, in order to sustain a charge of common-law obstruction of justice, common-law precedence for the specific offense charged as obstruction must exist. [*People v Jenkins*, 244 Mich App 1, 15; 624 NW2d 457 (2000) (citations omitted).]

*Thomas* observed that "Blackstone discusses twenty-two separate offenses under the heading 'Offenses against Public Justice.'" *Thomas, supra* at 457. Included in this list is "obstructing the execution of lawful process." *Id.* at 457 n 5, quoting Blackstone, Commentaries (1890). Blackstone observes, "This is at all times an offense of a very high and presumptuous nature, but more particularly so when it is an obstruction of an arrest upon criminal process." 2 Blackstone, Commentaries (William Jones ed, Claitor's Publishing Division, 1976), p 129.

We conclude that giving a false name to avoid arrest constitutes "obstructing the execution of lawful process." By repeatedly giving false names to the police, defendant obstructed the administration of justice by interfering with his arrest on the outstanding warrants. That defendant intended do so is evidenced not only by repeatedly giving false names and false spellings to the officers but also by defendant's behavior during booking, when defendant smirked at one of the arresting officers as he was giving his correct name to the booking officer. See *People v Fetterley*, 229 Mich App 511, 518; 583 NW2d 199 (1998) (observing that "because of the difficulty of proving an actor's state of mind, minimal circumstantial evidence is sufficient").

It is at this point in defendant's argument that the two branches of the argument converge. Specifically, defendant argues that because the jury was not given a specific unanimity instruction, there is no way to know if all the jurors agreed upon which arrest warrant he was trying to evade. As noted, defendant's jury instruction challenge has been waived. Further, regardless of the number of outstanding arrest warrants, what defendant's actions did was obstruct the officers from lawfully arresting defendant. It is the process of arresting defendant that he was obstructing, and it is this obstruction that underlies his conviction.

Affirmed.

/s/ Pat M. Donofrio  
/s/ David H. Sawyer  
/s/ William B. Murphy