STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 24, 2008
v	No. 274207 Jackson Circuit Court
ERIK WILLIAM SKIDMORE, Defendant-Appellant.	LC No. 06-003318-FH

Before: Wilder, P.J., and O'Connell and Whitbeck, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), and maintaining a drug house, MCL 333.7405(1)(d). He was sentenced as an habitual offender, second offense, MCL 769.10, to five years' probation, with 270 days in jail for the possession with intent to deliver conviction and 180 days in jail for the drug house conviction. He appeals as of right. We affirm.

Defendant argues that the evidence was insufficient to support his convictions because the prosecutor failed to prove beyond a reasonable doubt that the substance he possessed was illegal marijuana. Defendant contends that the prosecutor was required to prove that the substance contained tetrahydrocannabinol (THC) to verify that the substance seized from his house was marijuana. Marijuana is a controlled substance. MCL 333.7212(1)(c); *People v Derror*, 475 Mich 316, 324; 715 NW2d 822 (2006). Under MCL 333.7401(2)(d), defendant is guilty of a felony punishable by four or fewer years in prison if he possessed "[m]arihuana or a mixture containing marihuana" with the intent to deliver it when "the amount is less than five kilograms or fewer than 20 plants . . . ." According to MCL 333.7405(1)(d), defendant is guilty of keeping a drug house if he "knowingly keep[s] or maintain[s] a . . . dwelling . . . that is used for keeping or selling controlled substances in violation of this article." The term "marihuana" is defined in MCL 333.7106(3) as "all parts of the plant Canabis sativa L., growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin . . . ." As our Supreme Court observed in *Derror*, *supra* at 325, the prosecution is not required to affirmatively prove the presence of pure THC in a substance for it to be classified as marijuana.

In this case, the substance that was seized from defendant's home was examined by a forensic scientist, who testified that both a visual examination and chemical testing of the substance indicated that it was marijuana. The forensic scientist testified that the Duquenois-

Levine test, a color-change test, yields positive results when one or more of the following compounds in marijuana are present: THC, cannabinol, and cannabidiol. His visual examination of the substance indicated that it was marijuana, and the chemical test was also positive. While other substances had similar characteristics to marijuana under either visual inspection or chemical testing, he knew of no substance except marijuana that yielded positive results under both tests. Moreover, defendant testified that he had smoked marijuana nearly all his life. He also testified that he smoked some of the material that was later seized by the police, and he specifically identified it as marijuana. Viewed in a light most favorable to the prosecution, the evidence was sufficient to enable the jury to find beyond a reasonable doubt that the substance seized from defendant's house was marijuana.

We also reject defendant's argument that the prosecutor was required to prove that the substance seized was the plant species, "Canabis sativa L.," which is the specific species mentioned in the statutory definition of marijuana. However, this Court has specifically rejected this argument and held that a prosecutor is not required to establish the specific species or variety of marijuana. *People v Riddle*, 65 Mich App 433, 436-437; 237 NW2d 491 (1975); see also *Derror*, *supra*.

Defendant also argues that the trial court erred in denying his request to dismiss a juror for cause. We disagree. A trial court's ruling on a challenge for cause is reviewed for an abuse of discretion. *People v Williams*, 241 Mich App 519, 521; 616 NW2d 710 (2000). Defendant asserts that the jury foreman should have been excused under MCR 2.511(D) because he could not be impartial in this case. Defendant refers to the juror's background and experience as a police officer who had participated in several narcotic investigations and who had testified as an expert in narcotics identification in several cases. Upon questioning by the court, however, the juror stated that he could be fair and impartial, and that his experiences as a police officer would not affect his ability to render a verdict based only on the evidence presented in this case. The fact that the juror was a police officer "is not of itself sufficient to warrant an inference of bias." *People v Robert*, 162 Mich App 60, 64; 412 NW2d 244 (1987). Further, the juror did not make any comments suggesting that he had any preconceived notions or opinions about the case. This case is also unlike *Robert* because the record here indicates that the juror was a police officer in a different community from where the offense was prosecuted, and the record does not reflect any prior cooperation with the prosecutor or the witnesses. See *id*. at 64-65. Unlike *Robert*, the juror was not shown to be friends with any of the witnesses, and the credibility of police witnesses was not critical to a successful prosecution of the defendant. See *id*. Instead, the case came down to defendant's credibility about whether he intended to personally consume the large amount of marijuana found in his home. The trial court listened to the juror, assessed his demeanor, and determined that he could be fair. Under the circumstances, the trial court did not abuse its discretion in denying defendant's challenge for cause.

Affirmed.

/s/ Kurtis T. Wilder
/s/ Peter D. O'Connell
/s/ William C. Whitbeck