

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JADARIUS SHAMIR GRIFFIS,

Defendant-Appellant.

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UNPUBLISHED

February 5, 2009

No. 279182

Berrien Circuit Court

LC No. 2007-401974-FH

Before: Cavanagh, P.J., and Jansen and Meter, JJ.

PER CURIAM.

Defendant was found guilty by a jury 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 a repeat drug offender, MCL 333.7413, to concurrent terms of three to eight years' imprisonment for the marijuana conviction and one to four years' imprisonment for the drug-house conviction. He appeals as of right. We affirm.

After a controlled drug buy at defendant's home, the police obtained and executed a search warrant for the home and all vehicles located on the property. Upon arriving to execute the warrant, the police noticed a vehicle with three individuals parked in the driveway. When the individuals exited the vehicle at the direction of the police, a cloud of smoke rolled out and there was a strong smell of burning marijuana. The police patted down defendant and discovered 14 Ziploc "seals" (i.e., small plastic baggies) containing marijuana in the pocket of his pants. A search of the house revealed an additional 20 Ziploc seals of marijuana in a jacket located in defendant's bedroom. No additional packaging materials, drug-use paraphernalia, or substantial sums of money were discovered in the search. In a police interview after his arrest, defendant admitted the marijuana belonged to him but claimed he possessed it for his personal use and did not intend to sell it.

Before trial, the prosecutor moved to introduce "other-acts" evidence under MRE 404(b). Specifically, the prosecutor sought to admit evidence of two prior incidents in which defendant was discovered to possess marijuana. The first occurred in April 2006 when the police found 28 packets of marijuana in defendant's bedroom during a search of his home; the second occurred in September 2006 when the police found 18 packets of marijuana in the pocket of defendant's pants. The prosecutor argued in her motion brief that "[t]hese other acts are admissible under MRE 404(b) relevant to the issues of intent, knowledge, and to prove that the defendant

maintained a drug house for an appreciable period.” Over defense counsel’s objection, the trial court ruled the other-acts evidence was admissible.

At the conclusion of the prosecution’s case and again after the parties’ closing argument, the trial court instructed the jury that it was to consider the other-acts evidence only as proof that defendant intended to deliver or sell the marijuana and that he knew the contraband in his possession was in fact marijuana. The court warned the jury that it could not consider the evidence for any other purpose.

Defendant’s sole issue on appeal is that the trial court erred in allowing the prosecutor to introduce the other-acts evidence at trial. We disagree.

A trial court’s decision to admit evidence is reviewed for an abuse of discretion. *People v Aldrich*, 246 Mich App 101, 113; 631 NW2d 67 (2001). In determining whether other-acts evidence is admissible under MRE 404(b), a trial court should apply the following four-part standard:

First, that the evidence must be offered for a proper purpose under MRE 404(b); second, that it be relevant under MRE 402 as enforced through Rule 104(b); third, that the probative value of the evidence is not substantially outweighed by unfair prejudice; fourth, that the trial court may, upon request, provide a limiting instruction to the jury. [*People v VanderVliet*, 444 Mich 52, 55; 508 NW2d 114 (1993), amended 445 Mich 1205 (1994).]

In the instant case, the prosecutor introduced the evidence to show both defendant’s knowledge that what he possessed was marijuana and his intent to sell (as opposed to personally use) the marijuana. Thus, the other-acts evidence was offered for a proper purpose. Moreover, the evidence of defendant’s prior conduct and arrests was relevant to show he knew he possessed marijuana in the instant case given that he was familiar with what marijuana looked like and how it was packaged. Additionally, the evidence was relevant to show defendant intended to sell the marijuana because the number and size of the Ziploc seals were similar to those discovered during the two prior incidents. During the second incident in September 2006, defendant told the arresting officer, “I’ll give up my supplier. You don’t want me, I’m a small time dealer, I’ll give up my guy.” Thus, when found in possession of a like amount of contraband during the prior incident, defendant conceded his intent to deliver/sell, rather than personally use, the controlled substances. Next, the facts surrounding defendant’s prior arrests were highly probative. Finally, the trial court twice instructed the jury concerning the proper consideration of the other-acts evidence. Defendant does not challenge the substance of those instructions in this appeal.

Under the circumstances, the trial court did not abuse its discretion in allowing the other-acts evidence to be admitted at trial. The evidence was not offered to show defendant’s character (i.e., because he committed the prior criminal acts, he is a bad man and therefore should be convicted in the instant case), but rather to show that he knew what he possessed was marijuana and that he had the requisite intent to sell (as opposed to personally use) the marijuana. *People v Crawford*, 458 Mich 376, 389; 582 NW2d 785 (1998); *VanderVliet*, *supra*; *People v McGhee*, 268 Mich App 600, 610-612; 709 NW2d 595 (2005).

Affirmed.

/s/ Mark J. Cavanagh

/s/ Kathleen Jansen

/s/ Patrick M. Meter