

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BETTY JEAN WEAVER,

Defendant-Appellant.

UNPUBLISHED
October 28, 1997

No. 193228
Midland Circuit Court
LC No. 95-007746-FH

Before: Young, P.J., and Markman and Smolenski, JJ.

PER CURIAM.

Defendant was convicted by a jury of two counts of delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). Defendant was sentenced to consecutive enhanced¹ terms of three to twenty-five years' imprisonment. Defendant appeals as of right. We affirm.

Defendant's convictions arise out of incidents in which defendant delivered cocaine to a police informant on two separate occasions.

Defendant first argues that the trial court erred in admitting into evidence her two 1992 convictions for possession of cocaine. We disagree. During defendant's direct examination in this case, defendant not only denied selling, buying and using drugs, she also made general statements indicating that she disliked and would have no personal involvement with drugs. Consequently, the trial court ruled that the prosecution was entitled to rebut defendant's testimony concerning her anti-drug character pursuant to MRE 404(a)(1). We find no abuse of discretion. *People v McElhaney*, 215 Mich App 269, 280; 545 NW2d 18 (1996). Once a defendant has placed his or her character in issue, it is proper for the prosecution to introduce evidence that the defendant's character is not as was claimed. *People v Leonard*, ___ Mich App ___, ___ NW2d ___ (Docket Nos. 178121, 186776, issued 7/18/97), slip op p 12. Contrary to defendant's contention, our review of the record indicates that the trial court implicitly engaged in the balancing required under MRE 403 in deciding to admit this evidence. Finally, we conclude that the trial court did not abuse its discretion in not allowing defendant to explain to the jury the circumstances surrounding these prior convictions. We agree with the trial court's reasoning that such testimony was not relevant and would not "rehabilitate" defendant.

Moreover, the preclusion of this testimony did not deny defendant the opportunity to present a defense to the charges for which she was on trial.

Next, defendant argues that she was denied due process and a fair trial where the trial court questioned defendant in order to ascertain that defendant understood the consequences of committing perjury. Considering that the court questioned defendant outside the presence of the jury and defendant continued to testify, we disagree. *People v Wein*, 382 Mich 588; 171 NW2d 439 (1969).

Finally, defendant contends that the imposition of two consecutive three-year minimum sentences was an abuse of discretion. Considering the circumstances of the offenses and offender in this case, we disagree. *People v Miles*, 454 Mich 90; 559 NW2d 299 (1997); *People v Edgett*, 220 Mich App 686; 560 NW2d 360 (1996); *People v Williams*, 205 Mich App 229; 517 NW2d 315 (1994).

Affirmed.

/s/ Robert P. Young, Jr.
/s/ Stephen J. Markman
/s/ Michael R. Smolenski

¹ See MCL 333.7413; MSA 14.15(7413).