

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LEE OTIS CAMPBELL,

Defendant-Appellant.

UNPUBLISHED

May 26, 1998

No. 199756

Calhoun Circuit Court

LC No. 96-001537 FC

Before: Corrigan, C.J., and Hoekstra and Young, Jr., JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of three counts of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and three counts of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to three concurrent terms of 80 to 120 months' imprisonment for each of the assault convictions, to be followed by two concurrent terms of two years' imprisonment for each of the felony-firearm convictions. Defendant appeals as of right. We affirm.

Defendant argues that the trial court erred in using the reasonable doubt instruction found in the standard criminal jury instructions to charge the jury. See CJI2d 3.2. Specifically, defendant asserts that the instruction fails to impress upon a jury that guilt has to be so certain that it is as strong as a "moral certainty" and fails to convey that a reasonable doubt could arise based on the unsatisfactory nature of the evidence. However, because defendant did not object to the jury instruction, our review is foreclosed absent manifest injustice. *People v Kuchar*, 225 Mich App 74, 78; 569 NW2d 920 (1997). We conclude that manifest injustice will not result from our failure to review this issue because this Court previously rejected these same two precise arguments in *People v Hubbard*, 217 Mich App 459, 486-488; 552 NW2d 493 (1996).

Defendant next argues that the prosecutor committed misconduct by misstating the definition of reasonable doubt in his rebuttal argument. Because defendant did not object to the statements, our review of this issue is also foreclosed unless the prejudicial effect of the statements was so great that it could not have been cured by an appropriate instruction and failure to consider the issue would result in

a miscarriage of justice. *People v Hryshko*, 170 Mich App 368, 379; 427 NW2d 572 (1988). We are convinced that review is unnecessary. The prosecution did not claim that it did not have the burden to prove the case beyond a reasonable doubt, and the trial court properly instructed the jury about what constitutes a reasonable doubt.

Affirmed.

/s/ Maura D. Corrigan

/s/ Joel P. Hoekstra

/s/ Robert P. Young, Jr.