

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM EARL MAXWELL,

Defendant-Appellant.

UNPUBLISHED

July 10, 1998

No. 196795

Genesee Circuit Court

LC No. 95-052460 FH

Before: Murphy, P.J., and Young, Jr. and M. R. Smith*, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of delivery of less than fifty grams of cocaine. MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). He was sentenced as a second offense habitual offender to a term of eight to thirty years in prison. MCL 769.10; MSA 28.1082. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court abused its discretion in limiting the cross-examination of informant Kimberly Tweed as to other instances in which she provided information to the authorities. Any error in this regard was harmless. The scope of cross-examination is within the discretion of the trial court. *People v Williams*, 191 Mich App 269, 275; 477 NW2d 877 (1991). Defendant was fully able to examine Tweed as to her activities in this case. There is no showing that additional cross-examination would have produced additional information which would have been probative as to the issue of Tweed's credibility. The trial court did not abuse its discretion in limiting cross-examination. *People v Canter*, 197 Mich App 550, 564; 496 NW2d 336 (1992).

Defendant argues that the trial court abused its discretion in denying a continuance to obtain the testimony of the motel owner, who would purportedly testify that the room numbers were clearly marked, and the police officer should have known which room he was at when he made his undercover purchase. This testimony would only pose a collateral attack on the officer's testimony. The trial court did not abuse its discretion where the evidence to be offered would only have a minimal impact on refuting the credibility of a police witness. The trial court did not abuse its discretion in denying the

* Circuit judge, sitting on the Court of Appeals by assignment.

continuance, where there was no indication that defendant was prejudiced by the ruling. *People v Pena*, 224 Mich App 650, 661; 569 NW2d 871 (1997). Defendant was able to raise this issue with other testimony. The officer admitted his mistake in reporting that the sale took place in a different room. There is no showing that defendant was prejudiced by the absence of the witness.

Defendant has failed to show that his sentence is disproportionate. A habitual offender sentence is reviewed to determine if it violates the principle of proportionality set forth in *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). The sentencing guidelines are not relevant to this review. *People v Gatewood (On Remand)*, 216 Mich App 559, 560; 550 NW2d 265 (1996). In light of the circumstances surrounding the offense and the offender in this case, defendant's sentence does not violate the principle of proportionality, and the trial court did not abuse its discretion in sentencing defendant. *Id.*

Affirmed.

/s/ William B. Murphy
/s/ Robert P. Young, Jr.
/s/ Michael R. Smith