

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

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KURT MITCHELL,

Defendant-Appellant.

---

UNPUBLISHED

September 25, 1998

No. 199119

Recorder's Court

LC No. 95-013478

Before: Hood, P.J., and Griffin and O'Connell, JJ.

MEMORANDUM.

Defendant was convicted of possession with intent to deliver 50 grams or more, but less than 225 grams of cocaine, MCL 333.7401(1) and (2)(a)(iii); MSA 14.15(7401)(1) and (2)(a)(iii); and possession with intent to deliver marijuana, MCL 333.7401(1) and (2)(c); MSA 14.15(7401)(1) and (2)(c). He was sentenced to ten to twenty years' imprisonment on the cocaine conviction, and to a suspended sentence on the marijuana conviction. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Viewing the evidence in a light most favorable to the prosecution, a rational trier of fact could have found beyond a reasonable doubt that defendant possessed the cocaine and the marijuana at the time of his arrest. *People v Wolfe*, 440 Mich 508, 515, 520-521; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992).

Defendant failed to object at trial to the prosecutorial comments he now challenges on appeal. Accordingly, appellate review of defendant's prosecutorial misconduct claim is precluded unless the prejudicial effect could not have been cured by a jury instruction, or unless failure to consider the issue would result in manifest injustice. *People v Truong (After Remand)*, 218 Mich App 325, 336; 553 NW2d 692 (1996). Assuming, without deciding, that the remarks in question were inappropriate, a timely objection not only would have precluded the prosecutor from further advancing an improper argument, but also would have provided the judge with an opportunity to

cure any prejudice arising from the improper argument. Thus, any prejudice befalling defendant could have been minimal and easily cured.

Affirmed.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ Peter D. O'Connell