STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee,	UNPUBLISHED June 3, 2004
v	No. 246628 Wayne Circuit Court
DONNIE LEE BOBO, Defendant-Appellant.	LC No. 02-003422-01

Before: Markey, P.J., and Wilder and Meter, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of armed robbery, MCL 750.529, felon in possession of a firearm, MCL 750.224f, and felony firearm, MCL 750.227b. He was sentenced as a fourth felony offender to concurrent prison terms of 35 to 70 years for armed robbery and 2 to 5 years for felon in possession, and to a consecutive two-year term for felony firearm. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that there was insufficient evidence to identify him as the robber. However, Carol Orr and Yashieka Cooper testified that defendant robbed them at gunpoint in the driveway of Orr's home. Defendant argues that these identifications were suspect because the perpetrator was wearing a hood and dark clothing, it was dark, and the only light was from behind defendant. Further, he points out that Cooper originally identified someone else in the lineup and Orr originally believed that the person approaching them was her son. However, viewed in a light most favorable to the prosecutor, a rational trier of fact could have found beyond a reasonable doubt that defendant was the perpetrator. *People v Hardiman*, 466 Mich 417, 421; 646 NW2d 158 (2002). Both Orr and Cooper had previously seen defendant on the evening in question and on prior occasions in the neighborhood. Orr picked defendant out of a lineup without hesitation, and Cooper corrected her misidentification of another in the lineup without prompting and then identified defendant. Regardless, conflicts in the evidence must be resolved in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, these facts go to the weight of the evidence, which is a jury determination. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748, amended 441 Mich 1201 (1992).

Defendant next argues that he should be resentenced for the armed robbery without enhancement for his fourth habitual offender status because the record fails to establish

conclusively that written notice of the intent to enhance was provided within twenty-one days of arraignment as required by MCL 769.13. It appears that defendant did receive notice. A complaint signed by a magistrate on February 21, 2002, provided a habitual offender, fourth offense, notice. The undated information in the record repeated this notice verbatim. MCR 6.112(C) provides that the prosecutor must file the information on or before the date set for the arraignment. There is no indication that the prosecutor failed to meet this requirement. The arraignment on the information in circuit court was originally set for March 21, 2002, but was adjourned and held on March 22, 2002.

Had defendant raised this issue below, the record could have been clarified to establish conclusively that he or his attorney received a copy of the information with the subject notice. On the current record, defendant is not entitled to relief because he has not established a plain error affecting a substantial right, which would require a showing of prejudice. Moreover, reversal is not warranted since the circumstances "did not seriously affect the fairness, integrity, or public reputation of judicial proceedings." *People v Carines,* 460 Mich 750, 763; 597 NW2d 130 (1999).

Affirmed.

/s/ Jane E. Markey
/s/ Kurtis T. Wilder
/s/ Patrick M. Meter