

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID WAYNE SNYDER,

Defendant-Appellant.

UNPUBLISHED

June 8, 2004

No. 246727

Kalkaska Circuit Court

LC No. 02-002214-FH

Before: Sawyer, P.J., and Gage and Owens, JJ.

MEMORANDUM.

Defendant appeals as of right his jury convictions for driving while impaired, MCL 257.625(7)(a), and possession of marijuana, MCL 333.7403(2)(d). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that his due process rights were violated when the trial court allowed the jury to ask questions of the witnesses. In *People v Heard*, 388 Mich 182; 200 NW2d 73 (1972), the Supreme Court reviewed the existing law concerning whether jurors may ask questions, and found that all but one of the states that had addressed the issue had recognized the right of jurors to ask questions. The Court concluded that the practice should rest in the sound discretion of the trial court. In *People v Stout*, 116 Mich App 726, 733; 323 NW2d 532 (1982), this Court found that juror questions were not limited to situations where it was necessary to unravel confusing testimony.

Defendant cites two foreign cases, *State v Gilden*, 845 SW2d 882 (Tex App, 1992) and *State v Costello*, 646 NW2d 204 (Minn, 2002), that have found jury questioning impermissible. Both those opinions recognize that the majority of states allow for such questions. Given that Michigan has allowed jury questions for over 30 years without apparent detriment to the judicial system, it is difficult to find that defendant's fundamental rights have been impinged. Further, where the questions were fairly innocuous, there is no showing that defendant was denied a fair trial.

Affirmed.

/s/ David H. Sawyer

/s/ Hilda R. Gage

/s/ Donald S. Owens

