

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIFFANY CROFT,

Defendant-Appellant.

UNPUBLISHED

June 15, 2004

No. 246715

Wayne Circuit Court

LC No. 02-008758

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

PER CURIAM.

Following a nonjury trial, defendant was convicted of armed robbery, MCL 750.529, aggravated assault, MCL 750.81a, and possession of a firearm during the commission of a felony, MCL 750.227b. She was sentenced to time served on the assault conviction and to a prison term of two to fifteen years on the robbery conviction, to be served consecutively to the mandatory two-year term for felony-firearm. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that she did not voluntarily, intelligently, and understandingly waive her right to a jury trial. Because defendant did not raise this issue below, it has not been preserved for appeal and relief is not available unless defendant shows plain error that affected her substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999).

A review of the record shows that the trial court complied with the requirements of MCR 6.402(B). After defendant and counsel executed the standard waiver forms, defendant was placed under oath and the following transpired:

The Court: All right, your attorney has indicated to this Court you wish to have your trial heard by this Court, is that correct?

The Defendant: Yes.

The Court: Okay, I'm going to show you what's been identified for the record as a waiver of trial by jury and ask whether this is your signature that appears about mid-section of this document?

The Defendant: Yes.

The Court: You signed this here in open court today?

The Defendant: Yes.

The Court: Upon the consent and advice of your attorney? Is that correct?

The Defendant: Yes.

The Court: Okay, so, Ms. Croft, you've had an opportunity then to consult with your Counsel, is that correct?

The Defendant: Yes.

The Court: And you do here in open court voluntarily waive and relinquish your right to a jury trial in this matter, is that correct?

The Defendant: Yes.

The Court: And you've elected to have this Court hear your matter, is that correct?

The Defendant: Yes.

The Court: And you understand, Ms. Croft, that you have a full constitutional right to a jury trial, but at this time you are waiving that right, is that correct?

The Defendant: Yes.

The Court: Okay, now you're not under any influence of alcohol or drugs, is that correct?

The Defendant: Yes.

The Court: All right, and you're doing this freely and voluntarily?

The Defendant: Yes.

The Court: And no one has promised you anything in exchange to get you to waive your right to a jury trial, is that correct?

The Defendant: Yes.

The Court: Very well, then. The Court will accept this matter for a waiver trial.

Clearly, the court advised defendant of her right to a trial by jury and defendant stated that she agreed to waive that right and have the court hear the case. Therefore, the trial court did not clearly err in finding that defendant validly waived her right to a jury trial. *People v Taylor*,

245 Mich App 293, 305 n 2; 628 NW2d 55 (2001); *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997); *People v Shields*, 200 Mich App 554, 560-561; 504 NW2d 711 (1993).

Although the trial court's advice did not comply with the requirements imposed upon federal district courts by *United States v Delgado*, 635 F2d 889, 890 (CA 7, 1981), the advice required under *Delgado* is not a constitutional requirement, *United States v Sammons*, 918 F2d 592, 596-597 (CA 6, 1990), and is not required by state law. See *Leonard*, *supra* at 595-596; *People v James (After Remand)*, 192 Mich App 568, 570-571; 481 NW2d 715 (1992).

Affirmed.

/s/ David H. Sawyer

/s/ Hilda R. Gage

/s/ Donald S. Owens