

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICARDO BLACKSHIRE,

Defendant-Appellant.

UNPUBLISHED

January 15, 2009

No. 278467

Muskegon Circuit Court

LC No. 02-047580-FC

Before: Beckering, P.J., and Whitbeck and M. J. Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his jury convictions for conspiracy to commit armed robbery, MCL 750.157a, MCL 750.529; and possession of a firearm during the commission of a felony (felony-firearm), MCL 750.227b. The trial court sentenced defendant as a habitual offender, second offense, MCL 769.10, to consecutive sentences of 18 to 35 years' imprisonment for his conspiracy conviction and two years' imprisonment for the felony-firearm conviction. Because we conclude that there were no errors warranting relief, we affirm.

Defendant first argues that the trial court properly denied the prosecution's motion to amend the jury instructions and that, on interlocutory appeal, this Court clearly erred when it ordered the trial court to instruct the jury "in the manner advocated by the prosecutor."¹ Although defendant does not address whether this Court's prior consideration of this issue constitutes the law of the case, his argument clearly implicates that doctrine.

"When this Court disposes of an appeal by opinion or order, the opinion or order is the judgment of the Court." *Kasben v Hoffman*, 278 Mich App 466, 470; 751 NW2d 520 (2008). And, "an appellate court's determination of law will not be differently decided on a subsequent appeal in the same case if the facts remain materially the same." *People v Kozyra*, 219 Mich App 422, 433; 556 NW2d 512 (1996).

This Court previously determined that the trial court improperly denied the prosecution's request for an amended instruction and ordered the trial court to instruct the jury as requested by

¹ *People v Blackshire*, unpublished order of the Michigan Court of Appeals, entered October 25, 2004 (Docket No. 258643).

the prosecution. Although defendant argues that this Court erred in its previous decision, the law of the case doctrine applies “without regard to the correctness of the prior determination” *Grace v Grace*, 253 Mich App 357, 363; 655 NW2d 595 (2002). If defendant believed that this Court’s prior decision was in error, his remedy was to move for reconsideration or to appeal to our Supreme Court. See MCR 7.215(I); *People v Mitchell*, 231 Mich App 335, 340; 586 NW2d 119 (1998) (noting that the law of the case doctrine “bars reconsideration of an issue by an equal or subordinate court during subsequent proceedings in the same case.”).

Next, defendant contends that there was insufficient evidence to sustain his convictions. However, defendant’s argument is devoid of legal or factual analysis; defendant merely recites the standards applicable to an appellate review of the sufficiency of the evidence and quotes extensively from the trial transcripts. Hence, we conclude that defendant has abandoned this claim of error. See *People v Martin*, 271 Mich App 280, 315; 721 NW2d 815 (2006).

Nevertheless, even if we were to conclude that defendant had not abandoned this argument on appeal, it is without merit. Defendant’s cursory arguments focus on the credibility of the prosecution’s witnesses and the alleged lack of evidence regarding the conspiracy charge. We will not interfere with the jury’s role of determining the credibility of witnesses or the weight of the evidence. *People v Williams*, 268 Mich App 416, 419; 707 NW2d 624 (2005). While defendant’s coconspirators made inconsistent statements to the police during the early stages of the investigation, “a jury is free to believe or disbelieve, in whole or in part, any of the evidence presented.” *People v Perry*, 460 Mich 55, 63; 594 NW2d 477 (1999). Viewed in the light most favorable to the prosecution, the evidence in this case was sufficient for the jury to find that all the elements of conspiracy to commit armed robbery and felony-firearm were proved beyond a reasonable doubt. *People v McGhee*, 268 Mich App 600, 622; 709 NW2d 595 (2005).

There were no errors warranting relief.

Affirmed.

/s/ Jane M. Beckering
/s/ William C. Whitbeck
/s/ Michael J. Kelly