

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFERY LEONARD BEASLEY,

Defendant-Appellant.

UNPUBLISHED

June 11, 1996

No. 167024

LC No. 93-35494-FH

Before: Gribbs, P.J., and Hoekstra and C. H. Stark,* JJ.

PER CURIAM.

Defendant was convicted by a jury of conspiracy to deliver between fifty and 225 grams of cocaine, MCL 750.157a; MSA 28.354(1); MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), and delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). He was ultimately sentenced to consecutive terms of twelve to forty, and three to forty years. We affirm.

First, defendant argues that the evidence was insufficient to support his conviction for conspiracy. We do not agree. There was ample evidence that defendant was part of a chain that worked toward a common goal of distributing cocaine for the consumption of street users in the Muskegon area. There was evidence that a conspiracy to distribute drugs existed, and that the amount of cocaine involved exceeded fifty grams. There was evidence that the cocaine was processed for distribution at the home where defendant lived, and that defendant was present when the cocaine was cooked and cut into rocks. There was evidence that defendant purchased cocaine from one of the coconspirators after each new shipment came in, that he was allowed to get cocaine from other coconspirators when he needed it, that he sold drugs alongside other coconspirators, and that the members of the group would cover for one another when necessary. Viewing the evidence in a light most favorable to the prosecution, there was sufficient evidence to allow a rational trier of fact to conclude that defendant conspired to sell more than fifty grams of cocaine. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant also argues that the jury was improperly instructed on conspiracy because the trial court did not include the names of the coconspirators in the instruction.. Defendant did not object to the jury instruction below, and did not request that the names of the coconspirators be added to the instruction. Generally, failure to object to jury instructions waives the alleged error unless relief is necessary to avoid manifest injustice. *People v VanDorsten*, 441 Mich 540, 544-545; 494 NW2d 737 (1993). Failure to request instruction on any point of law is not grounds for setting aside the verdict of the jury. *People v Mills*, 450 Mich 61, 80; NW2d (1995). Moreover, we find no authority to support defendant's claim that the names of coconspirators are a necessary element of the crime and, in any event, find the alleged error harmless in this case.

Defendant contends that evidence of a drug transaction that occurred after his arrest was improperly admitted. As a general rule, the arrest of a defendant terminates the conspiracy. *People v Cadle*, 204 Mich App 646, 653; 516 NW2d 520 (1994), remanded for reconsideration on other grounds, 447 Mich 958 (1994). However, any error was harmless beyond a reasonable doubt in this case. *Id.* The challenged evidence was cumulative to evidence already properly admitted, and evidence of defendant's guilt as to the conspiracy charge was overwhelming.

Finally, defendant raises several issues concerning sentencing. Defendant was initially sentenced to terms of two to forty, and twenty to forty years of imprisonment. The trial court granted defendant's motion for resentencing, and defendant was resentenced to consecutive terms of twelve to forty, and three to forty years. None of defendant's claims have merit.

The trial court did not abuse its discretion in sentencing defendant to consecutive terms. *People v Morris*, 450 Mich 316, 320; 537 NW2d 842 (1995). Defendant's sentence was properly individualized, the trial court considered the appropriate factors, and defendant's sentence was proportionate to the offender and the offense. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). We find no abuse of discretion.

Affirmed.

/s/ Roman S. Gribbs

/s/ Joel P. Hoekstra

/s/ Charles H. Stark