**STATE OF MICHIGAN**

**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAZARO VIVAS,

Defendant-Appellant.

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UNPUBLISHED
June 28, 1996

No. 180255
LC No. 94-002491

Before: Gribbs, P.J., and Saad and J. P. Adair,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of possession with intent to deliver 650 grams or more of cocaine, MCL 333.7401(2)(a)(i); MSA 14.15(7401)(2)(a)(i). He was sentenced to life imprisonment. He appeals as of right, and we affirm.

Defendant first argues that the trial court erred in denying his motion to suppress the statements he made to the police. Specifically, defendant asserts that his statements were involuntarily made because of a police officer's promise of leniency. We disagree.

When reviewing a trial court's determination of the voluntariness of a confession, this Court must examine the entire record and make an independent determination. *People v Brannon*, 194 Mich App 121, 131; 486 NW2d 83 (1992). The trial court's findings will not be reversed unless they are clearly erroneous. *Id.* A confession will be considered the product of a promise of leniency if the defendant is likely to have reasonably understood the officer's statements as a promise of leniency, and if the defendant relied upon the promise in making his confession. *People v Conte*, 421 Mich 704, 739-741; 365 NW2d 648 (1984); *People v Butler*, 193 Mich App 63, 69; 483 NW2d 430 (1992). In examining the trial record, we find no affirmative evidence, other that defendant's own testimony, that the officer offered him a lower sentence, e.g., defendant confessed because of the police officer's statement that if defendant cooperated, he would ask the prosecutor to take that into consideration. The trial court believed the police officer's testimony that defendant was advised of his right. *Miranda v Arizona*, 384 US 436; 86 S Ct 1602; 16 L Ed 2d 694 (1966), reh den 385 US 890; 87 S Ct 11; 17

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

L Ed 2d 121 (1966). This Court gives deference to the trial court's superior ability to view the evidence. *People v Mack*, 190 Mich App 7, 17-18; 475 NW2d 830 (1991). Thus, although the officer's statement is to be viewed from the defendant's perspective, the trial court may nevertheless conclude that defendant is lying or that his perception that the statement was a promise of leniency was unreasonable. In this case, the trial court did not clearly err in declining to believe the defendant. Hence, we affirm the trial court's refusal to suppress defendant's statements. Accord *People v Ewing (On Remand)*, 102 Mich App 81, 85; 300 NW2d 742 (1980).

Defendant also argues that the trial court erred in denying defendant's motion to suppress the cocaine. Defendant was allegedly stopped for failing to signal two turns, which defendant asserts was merely a pretext to search his vehicle for drugs. We disagree.

A trial court's decision or a motion to suppress will not be reversed unless it is clearly erroneous. *People v Burrell*, 417 Mich 439, 448; 339 NW2d 403 (1983). A decision is clearly erroneous if the reviewing court is left with a definite and firm conviction a mistake has been made. *People v Chambers*, 195 Mich App 118, 121; 489 NW2d 168 (1992).

In reviewing whether a police stop is a pretext, this Court has held that the reasonableness of an arrest depends on the existence of two objective factors: 1) did the arresting officer have probable cause to believe that the defendant had committed or was committing an offense; and 2) was the arresting officer authorized by state or municipal law to effect a custodial arrest for the particular offense. *People v Haney*, 192 Mich App 207, 209-210; 480 NW2d 322 (1991), (adopting test of *United States v Trigg*, 878 F2d 1037, 1039 (CA 7, 1989)). In this case, defendant was validly stopped for failing to signal two turns, and then validly arrested for failing to produce a driver's license. See MCL 257.648; MSA 9.2348; MCL 257.301; MSA 9.2001. Accordingly, the police officers' arrest of defendant was reasonable and not pretextual. Therefore, we affirm the trial court's denial of defendant's motion to suppress the cocaine.

Defendant next argues that the prosecution improperly introduced irrelevant evidence of a third person's drug possession. Defendant has failed to preserve this issue for appeal by objecting below. Because this evidence was not decisive of the outcome, manifest injustice will not result from our failure to review it. *People v Stimage*, 202 Mich App 28, 29; 507 NW2d 778 (1993).

Lastly, defendant argues that he was denied a fair and impartial trial due to prosecutorial misconduct during closing arguments. However, defendant failed to object below, and we find that a proper instruction would have cured any alleged prejudice. *People v Stanaway*, 446 Mich 643, 686; 521 NW2d 557 (1994). Therefore, no manifest injustice will result from our failure to review defendant's claims of misconduct.

Affirmed.

/s/ Roman S. Gribbs
/s/ Henry William Saad
/s/ James P. Adair