

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MAXIMO SECADA JORRIN,

Defendant-Appellant.

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UNPUBLISHED

August 9, 1996

No. 176706

LC No. 93-014075

Before: Young, P.J., and Holbrook, Jr., and J. Richard Ernst,\* JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). He appeals as of right, asserting that his conviction was against the great weight of evidence. We affirm.

To support a conviction for possession with intent to deliver less than fifty grams of cocaine, the prosecutor must prove four elements: (1) that the recovered substance is cocaine, (2) that the cocaine is in a mixture weighing less than fifty grams, (3) that defendant was not authorized to possess the substance, and (4) that defendant knowingly possessed the cocaine with the intent to deliver. *People v Wolfe*, 440 Mich 508; 489 NW2d 748 (1992). Here, evidence was presented that defendant had engaged in exchanges with two unidentified men near a vacant building in Detroit. During these exchanges, defendant was given money in exchange for an unknown object which defendant took from a brown paper bag hidden in the area. When a police officer retrieved the bag from its hiding place, nine ziplock baggies were found inside, containing a substance later determined to include 0.94 grams of cocaine. Defendant's person was searched and \$212 in currency was seized. Defendant testified that the two men had approached him, asking if he wanted to buy beer or wine, and that he declined. Defendant also testified that the money in his possession was from gainful employment, and he denied any involvement in drug transactions. The trial judge, sitting as trier of fact, weighed the conflicting testimony and expressly found defendant's testimony not to be credible and the arresting officer's testimony to be "very credible." This Court will defer to the special opportunity of the trial court to assess the credibility of witnesses who appear before it. MCR 2.613(C). Under the circumstances of

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

this case, defendant's conviction is not manifestly against the clear weight of the evidence. See *People v Head*, 211 Mich App 205, 210; 535 NW2d 563 (1995). Moreover, viewed in a light most favorable to the prosecution, the circumstantial evidence presented at trial was sufficient to sustain defendant's conviction. *Wolfe, supra*.

Affirmed.

/s/ Robert P. Young

/s/ Donald E. Holbrook, Jr.

/s/ J. Richard Ernst