

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODNEY DUMAS,

Defendant-Appellant.

UNPUBLISHED
February 14, 1997

No. 156941
Recorder's Court
LC No. 91-007650

Before: Hoekstra, P.J., and Sawyer and T.P. Pickard,* JJ.

PER CURIAM.

Defendant appeals as of right from his jury trial convictions of two counts of armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, 750.227b; MSA 28.424(2). Defendant was sentenced to concurrent terms of fifteen to sixty years for each armed robbery conviction and to the consecutive two-year term for the felony-firearm conviction, both to be served consecutively to the sentence imposed in defendant's parole case. We affirm.

On appeal, defendant argues that the trial court erred in denying his motion to dismiss the armed robbery and felony-firearm charges for violation of the 180-day rule. We disagree. The applicability of the 180-day rule is a question of law which we review de novo. *People v Connor*, 209 Mich App 419, 423; 531 NW2d 734 (1995).

Pursuant to MCL 768.7a(2); MSA 28.1030(1)(2), a reoffending parolee is subject to mandatory consecutive sentencing *People v Maben*, 208 Mich App 652, 654; 528 NW2d 850 (1995). Here, the record reveals that defendant was on parole at the time he committed the instant offenses. As a reoffending parolee, defendant is subject to mandatory consecutive sentencing and his 180-day rule challenge must fail.

Defendant also argues that the trial court erred in refusing to grant a mistrial based on the prosecution's failure to comply with a discovery order. Specifically, defendant maintains that the prosecution breached its duty pursuant to the discovery order, which required that "defense counsel be

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

allowed to examine, and/or be furnished copies of . . . [a]ll corporeal and photographic lineup sheets.” We disagree. A prosecution’s violation of a discovery order, even if done inadvertently in good faith, warrants reversal unless it is clear that the failure to comply with the order was harmless beyond a reasonable doubt. *People v McConnell*, 124 Mich App 672, 680; 335 NW2d 226 (1983).

In the present case, the prosecution violated the trial court’s discovery order by failing to provide defendant with a copy of a photographic lineup sheet. However, we find that the trial court did not commit error requiring reversal in denying defendant’s motion because: (1) the trial court eliminated any potential prejudice by offering defendant additional time to prepare; and (2) given that complaining witness, Lupe Ramos, also picked defendant out of a five-person corporeal lineup, it was impossible to believe that, absent the photographic lineup sheet, defendant would have had a reasonably likely chance of acquittal. *McConnell*, *supra*, 124 Mich App 680-681.

Lastly, defendant argues that the trial court abused its discretion when it denied his request to retrieve and wear his own civilian clothing at trial. Specifically, defendant maintains that, because he and his codefendant, Patrick Tyrone Smith, were dressed in identical court-provided apparel, the jury could infer that he was a prisoner. We disagree. This Court reviews a trial court’s determination that a defendant’s clothing is not “prison garb” for an abuse of discretion. *People v Harris*, 201 Mich App 147, 151; 505 NW2d 889 (1993). Because the trial court observed defendant’s clothing firsthand and concluded that “it does not look like prison garb,” we find no abuse of discretion. *Harris*, *supra*; *People v Lewis*, 160 Mich App 20, 30; 408 Mich 94 (1987); *People v Woods*, 32 Mich App 358, 359; 188 Mich 649 (1971).

Affirmed.

/s/ Joel P. Hoekstra
/s/ David H. Sawyer
/s/ Timothy P. Pickard