

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MORRIS ENGRAM TAYLOR,

Defendant-Appellant.

UNPUBLISHED

April 15, 1997

No. 190972

Recorder's Court

LC No. 94-010589-FC

Before: Holbrook, Jr., P.J., and Fitzgerald and Smolenski, JJ.

PER CURIAM.

Defendant was convicted by a jury of armed robbery, MCL 750.529; MSA 28.797. Defendant was sentenced as a third-offense habitual offender to fifteen to thirty years' imprisonment, MCL 769.12; MSA 28.1084, MCL 769.13; MSA 28.1085. Defendant appeals as of right. We affirm.

Defendant first argues that the trial court abused its discretion in allowing the prosecutor to introduce police photographs of defendant that indicated three previous aliases, and in allowing a police detective to testify as to whether defendant's alleged actions constituted armed robbery. We disagree.

The record indicates that the prosecutor introduced the photographs and corresponding aliases on redirect examination of the detective in response to defendant's cross-examination of the detective. Specifically, defendant introduced a police photograph of himself indicating a prior alias in an attempt to discredit the testimony of the identifying witness. Therefore, we conclude that the trial court did not abuse its discretion in allowing the prosecutor to respond to defendant's use of a photograph and alias with evidence that defendant used many other prior aliases. See *People v Mooney*, 216 Mich App 367, 378; 549 NW2d 65 (1996); *People v McElhaney*, 215 Mich App 269, 283; 545 NW2d 18 (1996). Further, we conclude that the trial court did not abuse its discretion in allowing a police detective to testify as to whether defendant's alleged actions on the day in question constituted armed robbery, where such testimony assisted the jury in determining a fact in issue. *Mooney, supra* at 378; *People v Daniel*, 207 Mich App 47, 57-58; 523 NW2d 830 (1994).

Next, defendant claims that improper cross-examination violated his right to remain silent. Defendant did not object to the question he now claims prejudiced his case. Accordingly, review is foreclosed absent manifest injustice. *People v Davis*, 191 Mich App 29, 30; 477 NW2d 438 (1991). A defendant may be impeached with evidence of both prearrest and postarrest silence without violating the Fifth Amendment so long as the silence precedes the defendant's receipt of his rights pursuant to *Miranda v Arizona*, 384 US 436; 16 L Ed 2d 694; 86 S Ct 1602 (1966). *People v Dixon*, 217 Mich App 400; 552 NW2d 663 (1996). In this case, the prosecutor's question was brief, isolated and arose in response to an issue raised by defendant during his direct examination. Moreover, the question did not focus any alleged failure by defendant to make a post-*Miranda* statement to the police, but rather was phrased in general terms, i.e., whether defendant had previously told anyone about the identifying witness' drug use. Accordingly, we conclude that manifest injustice is not present here. *Davis, supra*.

Next, defendant argues that the trial court erred in instructing the jury. However, defendant expressed satisfaction with the instructions given and has, therefore, waived this issue for appeal absent manifest injustice. *People v Ullah*, 216 Mich App 669, 676-677; 550 NW2d 568 (1996). Manifest injustice will not result from our failure to address this issue.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ E. Thomas Fitzgerald

/s/ Michael R. Smolenski