

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ISAAC DARNELL GOODMAN-BEY,

Defendant-Appellant.

UNPUBLISHED

July 11, 1997

No. 184297

Jackson Circuit Court

LC No. 94-70845-FH

Before: Young, P.J., and Markey and D.A. Teeple*, JJ.

PER CURIAM.

Defendant appeals by right his jury trial conviction for inmate in possession of marijuana, MCL 800.281(4); MSA 28.1621(4), and his sentence as an habitual offender, fourth offense, MCL 769.12; MSA 28.1084. The court sentenced defendant to a term of imprisonment of eight to twenty years, to be served consecutively to the sentence defendant already was serving. The Jackson County Prosecutor's Office has not defended this appeal. We affirm.

Defendant was incarcerated at Jackson Central Correctional Facility. Prison officials found packets of marijuana in defendant's pockets during a random shakedown.

Defendant first argues that he was denied his constitutional right to an impartial jury drawn from a fair cross-section of the community. Because defendant failed to establish that minorities were unfairly and unreasonably underrepresented in Jackson County venires from which juries are selected or that any underrepresentation occurred due to systematic exclusion in the selection process, he did not present a prima facie case of denial of his rights. *People v Guy*, 121 Mich App 592, 599-600; 329 NW2d 435 (1982).

Defendant also argues that he was denied effective assistance of counsel. He first maintains that his counsel's objection to the jury venire should have been written, not oral. No legal authority supports defendant's argument. Counsel need not challenge the array in writing. *People v Hubbard (After*

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

Remand), 217 Mich App 459, 465; 552 NW2d 593 (1996). Our

Supreme Court vacated the case defendant relies upon, *People v Kelly*, 147 Mich App 806, 814; 384 NW2d 49 (1985), vacated 428 Mich 867 (1987). Defendant also argues that his counsel's failure to request that the prosecution turn over a videotape of the "stop" constituted ineffective assistance. Defendant's contention is without merit. The record does not reflect that such a videotape existed, much less that its absence prejudiced defendant's case or that its production would have changed the result. See *People v Stanaway*, 446 Mich 643, 687-688; 521 NW2d 557 (1994).

Defendant next argues that the trial judge's conduct pierced the veil of judicial impartiality. The trial court's questions were not prejudicial, unfair or biased; thus, they did not unduly influence the jury or deprive defendant of a fair trial. *People v Paquette*, 214 Mich App 336, 340-341; 543 NW2d 342 (1995); *People v Weathersby*, 204 Mich App 98, 109; 514 NW2d 493 (1994).

Finally, defendant's sentence was not erroneous. The sentencing court adequately addressed defendant's claims of error and appropriately tailored his sentence to the seriousness of his crime and his criminal history. *People v Milbourn*, 435 Mich 630, 634-635; 461 NW2d 1 (1990); *People v Gatewood (On Remand)*, 216 Mich App 559, 560; 550 NW2d 265 (1996). The court accepted defendant's version of the facts surrounding prison misconducts and juvenile adjudications. Defendant's mere protestations of innocence of his prior felony convictions were not allegations of error in the presentence report. Therefore, a corrected report under MCR 6.425(D)(3) is not necessary. Likewise, because defendant does not allege that his prior convictions were based on faulty adjudications, an additional hearing is not required. Finally, the seriousness of defendant's offense and his lengthy criminal history belie his claims that his sentence was disproportionate, *People v Cervantes*, 448 Mich 620, 630; 532 NW2d 831 (1995), or cruel or unusual punishment, *People v Launsbury*, 217 Mich App 358, 363; 551 NW2d 460 (1996).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Donald A. Teeple