

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAMELA BROWN,

Defendant-Appellant.

UNPUBLISHED

September 12, 1997

No. 191178

Montcalm Circuit Court

LC No. 94-000219-FH

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant was convicted by jury of possession with intent to deliver marijuana, MCL 333.7401(2)(c); MSA 14.15(7401)(2)(c), furnishing contraband to a prison inmate, MCL 800.281(1); MSA 28.1621(1), and possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). She was sentenced to one to four years' imprisonment on the possession with intent to deliver marijuana conviction, one to five years' imprisonment on the furnishing contraband conviction, and four to twenty years' imprisonment on the possession with intent to deliver cocaine conviction. Defendant appeals as of right. We affirm.

At defendant's preliminary examination, the prosecutor sought to amend the charges to add a charge of possession with intent to deliver cocaine under the smallest weight classification allowed under the statute. The prosecutor misspoke, however, and represented the smallest statutory weight classification as being less than 25 grams. MCL 333.7401(2); MSA 14.15(7401)(2) recognizes no such weight classification. The smallest weight classification recognized by the statute is the classification of "less than 50 grams." Under these circumstances, the information, as filed in the circuit court, did not add a new charge against defendant. Instead, the information merely reflects an accurate statement of the charge for which defendant was bound over to circuit court and which was supported by the evidence adduced at the preliminary examination, *People v Woods*, 200 Mich App 283, 287-288; 504 NW2d 24 (1993). Because the information did not add a new charge and was one supported by the evidence adduced at the preliminary examination, defendant was not entitled to receive a new preliminary examination on the charge of possession with intent to deliver less than 50 grams of cocaine.

People v Weathersby, 204 Mich App 98, 104; 514 NW2d 493 (1994); *People v Hutchinson*, 35 Mich App 128, 132-133; 192 NW2d 395 (1971)..

Also, defendant is not entitled to a remand for an evidentiary hearing because the prosecutor failed to produce witness Tara Wood at trial. The prosecutor did not endorse Wood. Accordingly, the prosecutor had no duty to produce the witness. MCL 767.40a; MSA 28.980(1); *People v Burwick*, 450 Mich 281; 537 NW2d 813 (1995); *People v Wolford*, 189 Mich App 478; 473 NW2d 767 (1991).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski