

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LENNIE LITTLE,

Defendant-Appellant.

UNPUBLISHED
October 31, 2000

No. 214717
Wayne Circuit Court
Criminal Division
LC No. 98-002993

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from his conviction of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), entered after a jury trial. We affirm.

Defendant was charged with home invasion in connection with a break-in at complainant's residence. In response to the prosecution's motion in limine to preclude questions regarding the possible sale of narcotics from complainant's residence, defendant argued that because his position was that he was at complainant's residence to buy marijuana, precluding such questions would impair his ability to present a defense. The trial court granted the motion, finding the proposed line of questioning would be irrelevant.

At trial, the evidence showed that when the police responded to an alarm at complainant's residence, they found that a basement window had been broken. The area around the window was muddy. The residence was ransacked. Defendant, who was previously seen looking out a window as the police arrived, was found lying on the living room floor when the police entered the home. Defendant had mud on his shoes. Defendant told the police the residence belonged to his uncle, and that while he was checking the residence he was hit on the head. Another man was found hiding in the attic. Defendant testified he went to complainant's home to buy marijuana, as he had done on previous occasions. He stated that after he paid for the marijuana, he was waiting in the living room when he was hit on the head. Defendant denied telling the police the residence belonged to his uncle. Defendant stated he did not know the man who was found in the attic. The third person to whom defendant

allegedly gave money for marijuana was not found in the residence. No drugs or drug paraphernalia were found in the residence.

The jury found defendant guilty. The trial court sentenced defendant as a second habitual offender to 5 to 22½ years in prison, with credit for 168 days.

A defendant has a constitutional right to present a defense and to confront his accusers. US Const, Am VI; Const 1963, art 1 § 20; *People v Adamski*, 198 Mich App 133, 138; 497 NW2d 546 (1993). The scope of cross-examination is within the discretion of the trial court; however, a court must exercise its discretion with due regard for a defendant's constitutional rights. *People v Holliday*, 144 Mich App 560, 566; 376 NW2d 154 (1985). A limitation on cross-examination which prevents a defendant from placing before the jury facts from which bias, prejudice, or lack of credibility of a prosecution witness might be inferred constitutes a denial of the right to cross-examination. Such a denial may be harmless error. Whether the error was harmless requires consideration of many factors, including, inter alia, the importance of the testimony, whether other evidence corroborated the testimony, the extent of cross-examination otherwise permitted, and the overall strength of the prosecution's case. *People v Kelly*, 231 Mich App 627, 644-645; 588 NW2d 480 (1998).

Defendant argues that the trial court's ruling precluding him from questioning complainant regarding complainant's drug trafficking activities constituted a denial of his right to cross-examination and to present a defense. We disagree and affirm defendant's conviction for the reason that any denial of defendant's right of cross-examination was harmless error. The undisputed evidence showed that complainant was not at home when defendant was found in his residence. Defendant had muddy shoes, and the area around the broken window was muddy. The person defendant allegedly paid for the marijuana was not found in the residence. No drugs or drug paraphernalia were found in the residence. Given the other evidence presented and the overall strength of the prosecution's case, any testimony by complainant regarding his past drug trafficking activities would not have assisted defendant in the presentation of his defense. *Kelly, supra*.

Defendant's argument that complainant's drug trafficking activities were admissible pursuant to MRE 404(b) was not presented below; therefore, we decline to address it on appeal. *People v Hamacher*, 432 Mich 157, 168; 438 NW2d 43 (1989).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage