

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRANKIE WAYNE KIMBLE,

Defendant-Appellant.

UNPUBLISHED

May 17, 2005

No. 252035

Oakland Circuit Court

LC No. 02-183350-FH

Before: Murphy, P.J., and White and Smolenski, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of felon in possession of a firearm, MCL 750.224f, possession with intent to deliver marijuana, MCL 333.7401(2)(d)(iii), and possession of a firearm during the commission of a felony (two counts), MCL 750.227b. Defendant was sentenced to concurrent prison terms of one to ten years for the felon in possession conviction and one to eight years for the marijuana conviction, to be served consecutively to concurrent terms of two years in prison for the felony-firearm convictions. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first argues that the search warrant was not based on probable cause and that the trial court therefore erred in failing to suppress the evidence seized at his mobile home. Specifically, he asserts that information that there was marijuana in his home came from an in-custody interrogation of a criminal suspect and was therefore inherently unreliable, and that corroborating information (i.e., that defendant lived at the stated address and that he had been arrested on drug charges three times in the mid 1980's) was stale and/or insufficient to support probable cause. Defendant has failed to cite authority for the proposition that information from an individual who is in custody is inherently unreliable. We will not search for authority to support a party's argument. *People v Hoffman*, 205 Mich App 1, 17; 518 NW2d 817 (1994). We note that the informant was named and claimed to have personal knowledge that marijuana was at defendant's home. Thus, there was compliance with MCL 780.653(a) (named informant speaking from personal knowledge). Further, even if the facts presented to the magistrate would not allow a person of reasonable prudence to believe that the evidence was in defendant's mobile home, see *People v Ulman*, 244 Mich App 500, 509; 625 NW2d 429 (2001), this would not require exclusion of the evidence on constitutional grounds. Since the police acted in reasonable reliance on a presumptively valid search warrant, the good-faith exception to the exclusionary

rule would apply. See *United States v. Leon*, 468 US 897; 104 S Ct 3405; 82 L Ed 2d 677 (1984); *People v Goldston*, 470 Mich 523; 682 NW2d 479 (2004).

Defendant next claims that there was insufficient evidence to convict him of felony-firearm because the firearms were unloaded, no ammunition was found, and he was storing the guns in the closet to use for hunting, not to use in the commission of a felony. However, operability of the firearm and, coextensively, availability of ammunition to make it operable, need not be established. *People v Brown*, 249 Mich App 382, 383-385; 642 NW2d 382 (2002); *People v Thompson*, 189 Mich App 85, 86; 472 NW2d 11 (1991). Moreover, because the proofs, when viewed in a light most favorable to the prosecution, established beyond a reasonable doubt that defendant possessed the marijuana and the firearms at the same time, there was sufficient evidence to support his convictions of felony-firearm. See *People v Burgenmeyer*, 461 Mich 431, 439-440; 606 NW2d 645 (2000).

Affirmed.

/s/ William B. Murphy

/s/ Helene N. White

/s/ Michael R. Smolenski