

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

UNPUBLISHED  
May 21, 2013

v

ANGEL LOUIS CARTAGENA,  
Defendant-Appellant.

No. 309456  
Oakland Circuit Court  
LC No. 2011-238337-FH

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Before: BECKERING, P.J., and JANSEN and M. J. KELLY, JJ.

PER CURIAM.

Defendant Angel Louis Cartagena appeals by right his jury convictions of possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv), two counts of possession of a controlled substance analogue, MCL 333.7403(2)(b)(ii), being a felon in possession of a firearm, MCL 750.224f, and four counts of possession of a firearm during the commission of a felony, MCL 750.227b. The trial court sentenced him as a fourth habitual offender, MCL 769.12, to serve concurrent prison terms of 1 to 40 years for the possession with intent to deliver cocaine conviction, 1 to 20 years for the felon-in-possession conviction, and 1 to 15 years for each possession of a controlled substance analogue conviction, which sentences were to be served consecutive to four concurrent two-year terms of imprisonment for the felony-firearm convictions. Because we conclude that there were no errors warranting relief, we affirm.

Cartagena argues that it was an error to permit the officer to describe him as a drug dealer during the officer's testimony; because this error prejudiced his trial, Cartagena maintains he is entitled to a new trial. Because Cartagena did not preserve this error by an objection at trial, we shall review it for plain error affecting his substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999). An otherwise plain error will not warrant relief unless it affected the outcome of the lower court proceeding. *Id.* at 763.

Cartagena also argues that his trial lawyer was ineffective for failing to object to this improper testimony. Because there was no hearing on the ineffective assistance claim, our review is limited to mistakes that are apparent on the record alone. *People v Gioglio (On Remand)*, 296 Mich App 12, 20; 815 NW2d 589 (2012), leave denied in relevant part 493 Mich 864. "To establish a claim of ineffective assistance of counsel, the defendant must show that 'counsel's representation fell below an objective standard of reasonableness' under prevailing professional norms and that there is a 'reasonable probability that, but for counsel's

unprofessional errors, the result of the proceeding would have been different.” *Id.* at 22 (citation omitted).

Cartagena’s convictions arise from evidence discovered after officers searched his home pursuant to a search warrant. After his arrest, Cartagena told officers that he actually possessed a particular quantity of cocaine and stated that he intended to sell it to an identified third party. According to Officer Gary Hembree, Cartagena agreed to work as an informant and so was released. Hembree explained that he recruited Cartagena because he believed that he was “a very serious drug dealer” who could provide useful information. The officer repeated on cross-examination that he “was very much aware” that Cartagena “was a drug dealer.”

To the extent that Hembree’s testimony might be said to be improper, see *People v Bragdon*, 142 Mich App 197, 199; 369 NW2d 208 (1985), any error in its admission was harmless. Evidence showed that Cartagena admitted that he put the one-ounce bag of cocaine where it was found on the air conditioner in the bedroom and admitted that he intended to sell it to the person discovered in the house at the time of the search. The evidence also showed that he had disclosed information about other drug dealers and agreed to work as an informant. That is, the evidence overwhelmingly showed that Cartagena was a drug dealer and possessed the cocaine with the intent to deliver it. While he did not admit to any other offenses, the evidence also showed that the firearm and steroids were found in the same bedroom where he hid the cocaine and where the officers found mail addressed to Cartagena. Similarly, the bedroom closet contained men’s clothing and a safe with cocaine residue in it. Officers also found a digital scale with cocaine residue on it next to the gun. Given the overwhelming evidence that Cartagena committed the charged crimes, it is not reasonably likely that Hembree’s opinion affected the outcome. Because Cartagena has not established that the admission of this testimony affected the outcome, even if it were error to admit it, he would not be entitled to any relief. See *Carines*, 460 Mich at 763; *Gioglio*, 296 Mich App at 22.

There were no errors warranting relief.

Affirmed.

/s/ Jane M. Beckering  
/s/ Kathleen Jansen  
/s/ Michael J. Kelly