

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KENT JACKSON, SR.,

Defendant-Appellant.

UNPUBLISHED

June 12, 2007

No. 269421

Saginaw Circuit Court

LC No. 05-026423-FH

Before: Fitzgerald, P.J., and Sawyer and O’Connell, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of failing to pay child support, MCL 750.165, and was sentenced to probation for 60 months. He appeals as of right. We affirm defendant’s conviction and sentence, but remand for correction of the judgment of sentence to reflect 54 days of sentence credit. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that the trial court abused its discretion by failing to admit evidence of his ex-wife’s prior convictions for purposes of impeachment. Specifically, defendant sought to admit evidence that the witness had been convicted of two counts of obtaining personal identity information without authorization, contrary to former MCL 750.285, repealed effective March 1, 2005. He contends that the evidence was admissible under MRE 609(a)(2), because the convictions were for a crime that contained an element of theft.

We find it unnecessary to decide whether the prior convictions were admissible because error, if any, was harmless. See, e.g., *People v Parcha*, 227 Mich App 236, 247; 575 NW2d 316 (1997); *People v Whittaker*, 465 Mich 422; 635 NW2d 687 (2001). An evidentiary error does not require reversal unless, after an examination of the entire cause, it affirmatively appears that it is more probable than not that the error was outcome determinative. *People v Lukity*, 460 Mich 484, 495-496; 596 NW2d 607 (1999).

Failure to pay child support is a strict liability offense. *People v Adams*, 262 Mich App 89, 100; 683 NW2d 729 (2004). An attorney with the Friend of the Court testified concerning the child support order, defendant’s payments, and his arrearage. Defendant’s testimony also established his failure to pay support as ordered by the court. Defendant’s ex-wife’s testimony was merely cumulative. Because her testimony was not important to defendant’s conviction, it is

not more probable than not that evidence concerning her credibility would not have affected the outcome.

Defendant also argues, and the prosecution agrees, that the judgment of sentence should be corrected to reflect 54 days of sentence credit. Although the trial court stated that defendant was entitled to 54 days' credit, the judgment of sentence does not refer to credit for time served. Therefore, we remand this case to the trial court for correction of the judgment of sentence to reflect 54 days of sentence credit.

Affirmed and remanded for correction of the judgment of sentence to reflect 54 days of sentence credit. We do not retain jurisdiction.

/s/ E. Thomas Fitzgerald

/s/ David H. Sawyer

/s/ Peter D. O'Connell