

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DALE L. DEWYER,

Defendant-Appellant.

UNPUBLISHED

August 30, 2002

No. 233200

Wayne Circuit Court

LC No. 00-005015

Before: Cooper, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of resisting and obstructing a police officer and resisting and injuring a police officer. MCL 750.479. He was sentenced to sixteen to twenty-four months' imprisonment with credit for forty-four days served. As a condition of parole and release, the court ordered defendant to pay restitution of \$6,084.70. Defendant now appeals by right. We affirm.

Defendant first argues that his convictions must be reversed because the prearrest delay resulted in defendant being denied his constitutional due process rights. We disagree. A challenge regarding prearrest delay is reviewed for an abuse of discretion. *People v Herndon*, 246 Mich App 371, 389; 633 NW2d 376 (2001).

To a limited extent, procedural due process guarantees protect a defendant against delay between the commission of an offense and arrest or indictment for that offense. *People v Cain*, 238 Mich App 95, 109; 605 NW2d 28 (1999). To warrant reversal of a defendant's conviction, a prearrest delay must have resulted in actual and substantial prejudice to the defendant's right to a fair trial and the prosecution must have intended to gain a tactical advantage. *People v Crear*, 242 Mich App 158, 166; 618 NW2d 91 (2000). To be substantial, the prejudice to the defendant must have meaningfully impaired his ability to defend against the charges such that the outcome of the proceedings was likely affected. *Id.*

In the present case, the offenses occurred on December 21, 1998, the warrant was signed on August 16, 1999, defendant was arraigned on April 1, 2000, and the preliminary examination was held on April 19, 2000. Defendant asserts that his "right to a fair trial was seriously compromised by the hiatus between the date of the offense and his arrest for that offense." However, defendant fails to set forth any evidence that the delay resulted in actual and substantial prejudice to his right to a fair trial. *Crear, supra; People v Adams*, 232 Mich App

128, 134; 591 NW2d 44 (1998) (defendant must establish “actual and substantial” prejudice to his right to a fair trial). In addition, there is no indication in the record that defendant’s ability to defend against the charges was impaired such that the outcome of the proceedings was likely affected. *Crear, supra*. In fact, the record shows that defendant called three witnesses who were present during the incident in dispute: his mother, father, and sister. Further, there is no evidence that the delay was intended to secure a tactical advantage on the part of the prosecution. *People v White*, 208 Mich App 126, 135; 527 NW2d 34 (1994). This issue is without merit.

Defendant also argues that the trial court improperly denied his request for an appeal bond and that he should be released on a reasonable appeal bond. Defendant further argues that his sentence is disproportionate. Because defendant has already served his minimum sentence and was discharged by the Department of Corrections on July 4, 2002, we decline to review these issues. “Where a subsequent event renders it impossible for this Court to fashion a remedy, an issue becomes moot.” *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994); see, also, *People v Bailey (On Remand)*, 218 Mich App 645, 648; 554 NW2d 391 (1996).

We affirm.

/s/ Jessica R. Cooper

/s/ Joel P. Hoekstra

/s/ Jane E. Markey