

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TALMADGE R. TURNER,

Defendant-Appellant.

UNPUBLISHED
December 2, 2003

No. 241591
Wayne Circuit Court
LC No. 01-007178

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

PER CURIAM.

Defendant appeals by right his convictions of carrying a concealed weapon, MCL 750.227, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b, entered after a jury trial. We affirm.

Before trial defendant moved to sever the charge of felon in possession of a firearm on the ground that introduction of evidence that he had a prior felony would be unduly prejudicial. The trial court denied the motion because the charge of felon in possession of a firearm was the basis for the charge of felony-firearm. The parties agreed that when the trial court instructed the jury on the elements of felon in possession of a firearm, it could simply state that defendant had been convicted of a specified felony and would refrain from mentioning the nature of that felony.

We review a trial court's decision on a motion to sever charges for an abuse of discretion. *People v Duranseau*, 221 Mich App 204, 208; 561 NW2d 111 (1997).

A defendant may be tried for both felon in possession of a firearm and other felonies arising from the same transaction, and unfair prejudice does not result if certain safeguards are present. These safeguards include introducing a stipulation that the defendant has a prior felony conviction, the giving of a limiting instructions advising that the jury must consider each charge separately and that the defendant's prior conviction can be considered only as it relates to the charge of felon in possession of a firearm. *People v Mayfield*, 221 Mich App 656, 659-660; 562 NW2d 272 (1997).

Defendant argues that the trial court denied him a fair trial by failing to sever the charge of felon in possession of a firearm. We disagree and affirm defendant's convictions. In this case the parties stipulated that defendant had a prior felony conviction. The nature of that conviction was not revealed to the jury. The trial court instructed the jury that it was to consider the charges

separately. The trial court did not instruct the jury that it could consider the evidence that defendant had a prior felony conviction only in relation to the charge of felon in possession of a firearm; however, defendant did not request that instruction. We conclude that in light of the fact that other safeguards existed, the trial court's failure to give such a limiting instruction did not result in manifest injustice. *People v Green*, 228 Mich App 684, 692; 580 NW2d 444 (1998). The institution of safeguards adequately protected defendant's right to a fair trial. The trial court did not abuse its discretion by denying defendant's motion to sever the charge of felon in possession of a firearm. *Duranseau, supra*.

We affirm.

/s/ Jessica R. Cooper

/s/ Jane E. Markey

/s/ Patrick M. Meter