

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD LOUIS HOWARD,

Defendant-Appellant.

UNPUBLISHED

February 15, 2005

No. 251313

Muskegon Circuit Court

LC No. 02-046998-FH

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

Defendant was convicted by a jury of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and possession of marijuana, MCL 333.7403(2)(d). He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was arrested on a bench warrant for failure to pay child support. As the police were confronting him to execute the warrant, he dropped a plastic bag containing cocaine, which was later recovered. After his arrest, marijuana was discovered on his person.

The test of prosecutorial misconduct is whether the defendant was denied a fair and impartial trial. *People v Watson*, 245 Mich App 572, 586; 629 NW2d 411 (2001). We review a claim of prosecutorial misconduct de novo. *People v Pfaffle*, 246 Mich App 282, 288; 632 NW2d 162 (2001).

Evidence of other crimes, wrongs, or acts is inadmissible to prove the character of a person in order to show that he acted in conformity with it, but may be admissible for other purposes, such as to show proof of motive, opportunity, intent, preparation, scheme, plan, or system in doing an act, knowledge, identity, or absence of mistake or accident. The other crimes, wrongs, or acts may be contemporaneous with, prior to, or subsequent to the conduct at issue. MRE 404(b)(1).

Defendant argues that the prosecutor committed misconduct by introducing evidence that he failed to pay child support and was sought by the police for that reason. We disagree and affirm defendant's convictions.

Defendant's argument regarding MRE 404(b) is misplaced. A bad act can be relevant and admissible under MRE 401 without regard to MRE 404(b). Evidence is relevant if it has any tendency to make the existence of a fact which is of consequence to the action more probable or less probable than it would be without the evidence. MRE 401. Evidence is admissible if it is helpful in throwing light on any material point. *People v Aldrich*, 246 Mich App 101, 114; 631 NW2d 67 (2001). Evidence that a bench warrant had been issued for defendant's arrest for failure to pay child support was relevant because it explained why the police were searching for him and why he was arrested before the police discovered that he had discarded cocaine and had marijuana on his person. MRE 404(b) was not implicated, *People v Houston*, 261 Mich App 463, 468-469; 683 NW2d 192 (2004), and no prosecutorial misconduct occurred. *Watson, supra*.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Kathleen Jansen