

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DENNIS MCCOY SCOTT,

Defendant-Appellant.

---

UNPUBLISHED

May 24, 1996

No. 174858

LC No. 93-064255-FH

Before: Kavanagh, T.G.,\* P.J., and R.B. Burns\*\* and G.S. Allen,\*\* JJ.

MEMORANDUM.

Defendant pleaded guilty to possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to seven to thirty years' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant supplied a sufficient factual basis to support the acceptance of his plea. MCR 6.302(D)(1); *People v Lafay*, 182 Mich App 528; 452 NW2d 852 (1990). In addition, the trial court could reasonably infer an intent to deliver based on the quantity of drugs involved. *In re Guilty Plea Cases*, 395 Mich 96, 130; 235 NW2d 132 (1975).

Defendant was not denied the effective assistance of appellate counsel because the trial court properly exercised its discretion in denying his motion to substitute counsel. *People v Flores*, 176 Mich App 610, 613-614; 440 NW2d 47 (1989). Further, the claims that defendant wanted his appellate counsel to raise on appeal are meritless. First, defendant waived the defense of entrapment by not

---

\*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

\*\*Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

raising it before sentencing. *People v Crall*, 444 Mich 463; 510 NW2d 182 (1993). Second, MCL 333.7401; MSA 14.15(7401) and MCL 333.7403; MSA 14.15(7403) provide that law enforcement officers are authorized to possess controlled substances in the course of their official duties. *People v Jones*, 203 Mich App 384, 387; 513 NW2d 175 (1994); *People v James Williams*, 196 Mich App 656; 493 NW2d 507 (1992). Third, defendant's sentence does not violate the principle of proportionality. *People v Cervantes*, 448 Mich 620; 532 NW2d 831 (1995); *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Finally, defendant was not denied the effective assistance of trial counsel. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994); *In re Oakland Co Prosecutor*, 191 Mich App 113, 120; 477 NW2d 455 (1991). Contrary to defendant's claim, there is nothing to show that trial counsel was ineffective for not pursuing an entrapment defense or preserving the entrapment issue by way of a conditional guilty plea. Given that there was no basis for the entrapment defense, trial counsel did not err in failing to move for plea withdrawal before sentencing. On the contrary, the record indicates defense counsel provided able assistance in negotiating a plea agreement whereby the prosecutor agreed to dismiss charges that carried a mandatory minimum sentence of ten years' imprisonment. Finally, there is nothing in the record to indicate that trial counsel misled defendant about the sentencing consequences of his plea.

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.