

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DONALD ALLAN MCDOWELL,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 182994

LC No. 94-001644-FH

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

MEMORANDUM.

Pursuant to a plea and sentence agreement, defendant pleaded guilty to two counts of conspiracy to deliver less than fifty grams of cocaine, MCL 750.157(a); MSA 28.354(1) and MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and was sentenced to consecutive terms of one-and-a-half to twenty years' imprisonment. He appeals as of right. We remand for resentencing. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court erred by imposing consecutive sentences pursuant to MCL 333.7401(3); MSA 14.15(7401)(3). *People v Denio*, 214 Mich App 647; 543 NW2d 66 (1995), lv pending. Under the facts of this case the proper remedy for this mistake of law is to remand for resentencing. *People v Green*, 205 Mich App 342; 517 NW2d 782 (1994).

Remanded for resentencing. We do not retain jurisdiction.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

**Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.