

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

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MONICA BURGI,

Defendant-Appellant.

---

UNPUBLISHED

October 1, 1996

No. 190889

LC No. 94-006673-FH

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.\*

MEMORANDUM.

Defendant pleaded guilty to aiding and abetting the delivery of marijuana, MCL 333.7401(2)(c); MSA 14.15(7401)(2)(c), and was sentenced to two to four years' imprisonment. She appeals as of right. We affirm defendant's conviction, but vacate her sentence and remand for resentencing. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant's sentence, which is a departure from the recommended guidelines' range of 0 to 12 months, violates the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). The circumstances of the offense were adequately considered by the sentencing guidelines, particularly Offense Variables 8, 15 and 25. Furthermore, defendant's criminal history involved only one conviction, that being for operating a motor vehicle while under the influence of liquor. Therefore, the trial court's reliance on factors adequately considered by the guidelines in departing from the recommended sentencing range was an abuse of discretion. See *People v Rosales*, 202 Mich App 47; 507 NW2d 776 (1993). We therefore vacate defendant's sentence and remand for resentencing.

Next, the trial court did not abuse its discretion in denying defendant's motion for bond pending appeal. In denying the motion, the trial court noted that absent from defendant's pleadings regarding her

---

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

concern for early release from confinement was the fact that she was authorized for boot camp placement and could already have been released by the time of the hearing. In view of defendant's guilty plea, her testimony at sentencing, and the significant level of her drug trafficking, the court did not believe there was any viable appellate issue which merited consideration of bond pending appeal. We cannot say the trial court abused its discretion in denying defendant's motion for bond pending appeal. MCR 7.209(B)(2).

Defendant's plea-based conviction is affirmed, but her sentence is vacated and the case is remanded for resentencing. We do not retain jurisdiction.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan