

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK LEE BROWN,

Defendant-Appellant.

UNPUBLISHED

April 4, 1997

No. 187449

Kent Circuit Court

LC No. 95 000029-FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Pursuant to an agreement, 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 was sentenced to 3-1/3 to 20 years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

There is adequate evidence in the record to support the trial court's scoring of ten points for Offense Variable 8. *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). Even if the variable was incorrectly scored, the error was harmless since the recommended guidelines' range would not have changed. *People v Ratkov (Aft Remand)*, 201 Mich App 123, 125-127; 505 NW2d 886 (1993).

The trial court did not abuse its discretion in sentencing defendant. *People v Cervantes*, 448 Mich 620, 626-627; 532 NW2d 831 (1995). His sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990).

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

Affirmed.

/s/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar