

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD L. MCMILLAN,

Defendant-Appellant.

UNPUBLISHED

May 25, 1999

No. 209307

Oakland Circuit Court

LC No. 96-148774 FH

Before: Griffin, P.J., and Cavanagh and Fitzgerald, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from his plea-based convictions of possession of more than 50 but less than 225 grams of cocaine, MCL 333.7403(2)(a)(iii); MSA 14.15(7403)(2)(a)(iii), and possession of more than twenty-five but less than fifty grams of heroin, MCL 333.7403(2)(a)(iv); MSA 14.15(7403)(2)(a)(iv). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant entered a conditional plea and preserved his right to appeal the issue of the trial court's denial of his motion to suppress evidence. The trial court sentenced defendant to consecutive terms of ten to forty years in prison for the conviction of possession of more than 50 but less than 225 grams of cocaine and one to forty years for the conviction of possession of more than twenty-five but less than fifty grams of heroin. MCL 333.7413(2); MSA 14.15(7413)(2).

Defendant moved to withdraw his plea on the ground that the plea was not voluntary because he had not been informed of possible sentencing consequences resulting from a pending federal charge. The trial court denied the motion.

We review a trial court's decision on a motion to withdraw a guilty plea made after sentencing for an abuse of discretion resulting in a miscarriage of justice. *People v Ward*, 230 Mich App 95, 98; 583 NW2d 495 (1998).

Defendant argues that his plea was not knowingly and voluntarily made because he was unaware that appellate review of the preserved issue would be by leave only. Const 1963, art 1, § 20.

We affirm. Defendant has waived appellate consideration of his challenge to the knowing and voluntary nature of his plea. Defendant failed to move in the trial court to withdraw the plea on this ground. MCR 6.311(C); *People v Beasley*, 198 Mich App 40, 42-43; 497 NW2d 200 (1993).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ E. Thomas Fitzgerald