

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

MIGUEL ZARATE,

Defendant-Appellant.

UNPUBLISHED

September 30, 2003

No. 240334

Saginaw Circuit Court

LC No. 96-011841-FC

Before: Smolenski, P.J., and Murphy and Wilder, JJ.

MEMORANDUM.

Defendant appeals as of right from his resentencing for delivery of over 650 grams of cocaine, MCL 333.7401(2)(a)(i). We affirm.

Defendant argues that the court abused its discretion in failing to appoint a translator at resentencing. If an accused person is incapable of adequately presenting a defense due to a lack of ability to understand or speak the English language, the court shall appoint an interpreter. MCL 775.19a. This Court reviews a trial court's decision regarding whether to appoint an interpreter for an abuse of discretion. *People v Warren (After Remand)*, 200 Mich App 586, 591; 504 NW2d 907 (1993).

An interpreter was appointed for defendant at his 1996 trial and his 1999 sentencing. However, there was no mention of an interpreter at the 2002 resentencing, and there was no indication that defendant was incapable of participating in the proceedings due to an inability to understand English. Counsel was not ineffective in failing to request an interpreter where the record shows that he was able to effectively communicate with defendant and present his arguments to the court. There is no showing that but for counsel's failure to request an interpreter, the result of the proceeding would have been different. *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994).

Defendant argues that his consecutive sentences constitute cruel or unusual punishment. MCL 333.7401(3) mandates that a prison term for a controlled substances offense shall run consecutively with any prison term imposed for another felony, including another controlled substances offense. *People v Morris*, 450 Mich 316, 337; 537 NW2d 842 (1995). A court does not have to consider the effect of consecutive sentences in determining the proportionality of the sentence. *People v Miles*, 454 Mich 90, 95; 559 NW2d 299 (1997).

In determining whether a punishment is cruel or unusual, one must look to the gravity of the offense and harshness of the penalty, compare the penalty to those imposed for other crimes, and consider the goal of rehabilitation. *People v Launsbury*, 217 Mich App 358, 363; 551 NW2d 460 (1996). The imposition of harsh penalties for repeat drug dealers does not violate the constitutional prohibition against cruel or unusual punishment. *People v Poole*, 218 Mich App 702, 717; 555 NW2d 485 (1996).

Affirmed.

/s/ Michael R. Smolenski

/s/ William B. Murphy

/s/ Kurtis T. Wilder