

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONNIE JOHNSON,

Defendant-Appellant.

UNPUBLISHED

April 12, 1996

No. 178526

LC No. 94-133506 FH

Before: O’Connell, P.J., and Hood and C.L. Horn, * JJ.

PER CURIAM.

Defendant pleaded guilty to buying, receiving, possessing or concealing stolen property, MCL 750.535; MSA 28.803, and to being an habitual offender, fourth offense. MCL 769.12; MSA 28.1084. He was sentenced to one to twenty years’ imprisonment with respect to the habitual conviction. He now appeals as of right, challenging the sentence imposed. We vacate defendant’s sentence and remand for entry of a sentence in accordance with defendant’s *Cobbs*¹ agreement.

Defendant and the circuit court entered into a sentence disposition agreement whereby the court agreed to sentence defendant to a term of one to fifteen years’ imprisonment in exchange for his pleas of guilty. The sentencing court did not abide by this agreement. While certain situations exist in which a sentencing court may decline to be bound by a sentence disposition agreement, see, e.g., *People v Baker*, ___ Mich App ___; ___ NW2d ___ (Docket no. 181749, slip op p 1, issued February 27, 1996), the case *sub judice* does not present such a situation. Further, even in such a situation, the sentencing court is not free to simply disregard the *Cobbs* agreement, but must allow the defendant to withdraw his plea and proceed to trial. MCR 6.302(C). Therefore, we vacate defendant’s sentence and remand for imposition of a sentence in accordance with the *Cobbs* agreement.

Because of our resolution of this issue, it is unnecessary for us to address defendant’s allegation that he suffered from ineffective assistance of counsel.

* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant's sentence is vacated and the matter remanded for entry of a judgment of sentence in accordance with this opinion. We do not retain jurisdiction.

/s/ Peter D. O'Connell

/s/ Harold Hood

/s/ Carl L. Horn

¹ *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993).