

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TODD NELSON CAMPBELL,

Defendant-Appellant.

UNPUBLISHED

June 24, 1997

No. 191029

Jackson Circuit Court

LC No. 95-72824 FH

Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

Following a jury trial in Jackson Circuit Court, defendant was convicted as charged of possession with intent to deliver more than 45 kilograms of marijuana, and conspiracy to commit that offense, the substantive offense being subject to a maximum penalty of 15 years imprisonment and a fine of \$10,000,000 under §7401(d)(i) of the Public Health Code, as amended by 1994 PA 221. The evidence at trial indicated that defendant joined a conspiracy to transport a truckload of marijuana, more than 500 pounds, from Arizona to Jackson County. At trial, defendant claimed that he was unaware of the overall scope of the conspiracy, and that he should be found guilty only of possession.

At sentencing, defendant persisted in his claim that he was but a small cog in a large criminal enterprise, a minor player who should receive a minimal penalty. The trial court, however, opined that defendant had knowingly participated in a conspiracy to inundate Jackson County with marijuana from Arizona, heedless of the social costs that would have been inflicted on the people of Jackson County had the efforts of law enforcement authorities not blocked the conspirators from attaining their goal. Defendant was sentenced to 8 to 15 years imprisonment on each count, and he now appeals by right. This case is being decided without oral argument pursuant to MCR 7.214(E).

In this Court, defendant continues to assert that he had only a minor role in the conspiracy, and thus that his sentence is disproportionate to the offender, if not to the offense. To the extent defendant argues that the trial judge erred in his factual evaluation of defendant's culpability, defendant's arguments are not even cognizable, since in light of the verdict of the jury there is no basis for an assertion that the

trial court's factual view of matters is utterly unsupported by the record. *People v Mitchell*, 454 Mich 145; ___ NW2d ___ (1997).

With respect to defendant's claim of disproportionality in sentencing, this Court disagrees. Although this may be defendant's first felony offense, he is no stranger to the criminal justice system, and in any event he chose to perpetrate his first two felonies in a major way. The scope of the conspiracy and the amount of marijuana involved greatly exceeds the threshold of 45 kilograms of marijuana, which is needed to place the offense in the highest sentencing category under §7401(d)(i) of the Public Health Code. Defendant's sentence does not reflect an abuse of the trial court's sentencing discretion, and the sentence imposed is not disproportionate to the offense or the offender. *People v Merriweather*, 447 Mich 799; 527 NW2d 460 (1994); *People v Houston*, 448 Mich 312; 532 NW2d 508 (1995).

Affirmed.

/s/ Hilda R. Gage
/s/ Maureen Pulte Reilly
/s/ Joel P. Hoekstra