

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID ANDREW MAPLES,

Defendant-Appellant.

UNPUBLISHED

November 4, 1997

No. 196975

Macomb Circuit Court

LC No. 93-002380 FH

Before: Holbrook, Jr., P.J., and Michael J. Kelly and Gribbs, JJ.

PER CURIAM.

Defendant pleaded guilty to delivery of 50 grams or more, but less than 225 grams, of cocaine, MCL 333.7401(1) and (2)(a)(iii); MSA 14.15(7401)(1) and (2)(a)(iii), and was sentenced to serve ten to twenty years in prison. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err when it determined that defendant failed to show that he had been entrapped. *People v Ealy*, 222 Mich App 508, 510; 564 NW2d 168 (1997); *People v Forrest*, 159 Mich App 329, 333; 406 NW2d 290 (1987).

On the record before us, the trial court did not abuse its discretion when it determined that the objective and verifiable factors presented in this case failed to constitute substantial and compelling reasons to depart from the statutory minimum sentence. *People v Fields*, 448 Mich 58, 76-78; 528 NW2d 176 (1995); *People v Hannold*, 217 Mich App 382, 392; 551 NW2d 710 (1996).

Defendant's unconditional guilty plea waives review of his claimed violation of the 180-day rule, *People v Irwin*, 192 Mich App 216, 218; 480 NW2d 611 (1991), and his claimed violation of his constitutional and statutory right to a speedy trial, *People v Depifanio*, 192 Mich App 257, 257-258; 480 NW2d 616 (1991). Additionally, defendant has waived review of his claims of ineffective assistance of counsel which relate to his claimed violation of the 180-day rule and the right to a speedy trial. *People v Vonins (After Remand)*, 203 Mich App 173, 176; 511 NW2d 706 (1993).

We reject defendant's challenge to the constitutionality of the statute under which he was convicted. Defendant argues that when our Supreme Court struck down that portion of MCL 791.234(4); MSA 28.2304(4), that denied parole consideration to criminal defendants convicted of possession of 650 grams or more of cocaine as violative of the prohibition against cruel or unusual punishment under Const 1963, art 1, § 16, *People v Bullock*, 440 Mich 15; 485 NW2d 866 (1992), the Court "unconstitutionally amended" MCL 333.7401; MSA 14.15(7401), in violation of 1963 Const, art 4, §§ 24-25. Defendant further argues that this unconstitutional amending of the statute rendered the entire statute void. Not only did *Bullock* not strike down any provision of MCL 333.7401, but also, even if it had, and even if the Court's action had constituted an unconstitutional amendment of the statute, only the provision amended, and not the entire statute, would be unconstitutional. *Automobile Club of Michigan Committee for Lower Rates Now v Sec'y of State (On Remand)*, 195 Mich App 613, 622-623; 491 NW2d 269 (1992).

Finally, by his membership in the State Bar of Michigan, defendant's trial counsel was licensed to practice law in this State. MCL 600.901; MSA 27A.901; *State Bar of Michigan v Cramer*, 399 Mich 116; 249 NW2d 1 (1976).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Michael J. Kelly

/s/ Roman S. Gibbs