

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN PAUL BENTLEY,

Defendant-Appellant.

UNPUBLISHED

January 9, 1998

No. 200792

Livingston Circuit Court

LC No. 94-008253 FH

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Pursuant to a plea and sentence bargain, defendant pleaded guilty to possession with intent to deliver more than 50 but less than 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), in exchange for dismissal of a related charge of conspiracy to deliver cocaine over 50 but less than 225 grams, with an agreement of a sentence of eleven to twenty years' imprisonment. The trial court duly imposed the agreed-upon sentence, although remarking that it was not happy with the legislative scheme of mandatory drug sentences. This appeal is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Defendant contends that the trial court failed to recognize that it had discretion to impose a lesser sentence. In remarking that it had no such discretion, the trial court was obviously cognizant of the prerequisite for imposing a lesser sentence -- the presence in the record of objective and verifiable factors constituting substantial and compelling reasons for a lesser sentence. *People v Fields*, 448 Mich 58; 528 NW2d 176 (1995). Defendant argues that the sentencing court could have found, in the exercise of its sentencing discretion, that a lesser sentence would have been both legally permissible and appropriate. However, if the court did so, it could have then allowed the prosecution an opportunity to withdraw from the plea bargain or accept such lesser penalty, *People v Siebert*, 450 Mich 500; 537 NW2d 891 (1995). This argument fails to recognize that the collapse of the plea bargain would leave defendant exposed to consecutive sentences with combined mandatory minima of twenty years and maxima of forty years. *People v Denio*, 454 Mich 691; 564 NW2d 13 (1997). On this record, the trial court simply concluded that it had no justification for rejecting the plea and sentence bargain, and accordingly defendant is without standing to contend on appeal that the sentence to which he agreed is

disproportionate to the offense or the offender. *People v Cobbs*, 443 Mich 276, 285; 505 NW2d 208 (1993).

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra