

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GERALD FIELDS, JR.,

Defendant-Appellant.

UNPUBLISHED

April 30, 1999

No. 205657

Calhoun Circuit Court

LC No. 95-001206 FH

Before: Kelly, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(1) and (2)(a)(iv); MSA 14.15(7401)(1) and (2)(a)(iv), and was sentenced to three to twenty years' imprisonment. Defendant appeals as of right. We affirm.

Our review of the record indicates that defendant's plea was secured, in part, by a sentence agreement pursuant to which the prosecutor promised to recommend a sentence cap of the middle of the sentencing guidelines recommended range. The prosecutor honored this agreement at sentencing. The trial court imposed a sentence that was exactly in the middle of the guidelines range. Because the sentencing agreement was honored, defendant was not entitled to withdraw his plea. *People v Eloby (After Remand)*, 215 Mich App 472, 476; 547 NW2d 48 (1996).

To the extent that defendant argues that his plea was not an understanding one, his failure to move to withdraw his plea in the trial court on this ground precludes appellate consideration of the claim. MCR 6.311(C); *People v Beasley*, 198 Mich App 40, 42-43; 497 NW2d 200 (1993).

Affirmed.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski