

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MALCOLM B. BRYANT,

Defendant-Appellant.

UNPUBLISHED

May 11, 1999

No. 200546

Genesee Circuit Court

LC No. 94-050988 FH

Before: Saad, P.J., and Kelly and Bandstra, JJ.

PER CURIAM.

Defendant pleaded guilty to possession of more than fifty grams but less than 225 grams of cocaine, MCL 333.7403(2)(a)(iii); MSA 14.15(7403)(2)(a)(iii), and possession of a short-barreled shotgun, MCL 750.224b; MSA 28.421(2). He was sentenced to consecutive terms of ten to twenty and one to five years' imprisonment, respectively. He appeals as of right. We affirm.

Defendant asserts that the trial court lost jurisdiction to sentence him because his sentencing was delayed for more than one year. We disagree. Regardless of whether the offense for which a defendant stands convicted is one subject to probation, the trial court must sentence the defendant within one year of the date of the conviction upon which the defendant is being sentenced or the court is deprived of personal jurisdiction over the defendant and may not sentence the defendant, absent a showing of good cause to exceed the one-year deadline. *People v Richards*, 205 Mich App 438, 442, 444; 517 NW2d 823 (1994); *People v West*, 100 Mich App 498, 500-501; 299 NW2d 59 (1980). The defendant may waive this one-year requirement and consent to the personal jurisdiction of the court for the purpose of sentencing. *Richards, supra* at 444-445. A defendant's request for the delay or acquiescence in the delay constitutes a waiver of the one-year requirement. *People v Cordell*, 309 Mich 585, 594-597; 16 NW2d 78 (1944); *Richards, supra*.

Although sentencing did not occur until fifteen and one-half months after defendant's plea, the original sentencing was timely scheduled by the trial court for October 12, 1995, just over a month after the plea. Sentencing was then adjourned, pursuant to defendant's requests and to accommodate his motions and the resulting hearings, until January 26, 1996. The sentencing occurred within one year of

that date. Further, defendant consensually submitted to the jurisdiction of the court by appearing at the October, 1996, motion hearing and not challenging personal jurisdiction by requesting the adjournment of the December 5, 1996, sentencing and by appearing at the December 20, 1996, sentencing and again not challenging personal jurisdiction. Accordingly, the trial court correctly determined that it had jurisdiction to sentence defendant.

The trial court did not abuse its discretion when it denied defendant's presentence motion to withdraw his guilty pleas. *People v Kennebrew*, 220 Mich App 601, 605; 560 NW2d 354 (1996); *People v Spencer*, 192 Mich App 146, 150; 480 NW2d 308 (1991). The record created at the October 25, 1996, evidentiary hearing contains no basis for a conclusion that defendant had a meritorious defense. *People v Gomer*, 206 Mich App 55, 58; 520 NW2d 360 (1994); *People v Jackson*, 203 Mich App 607, 611, 613; 513 NW2d 206 (1994); *People v Thew*, 201 Mich App 78, 96; 506 NW2d 547 (1993).

We decline to address defendant's claim that the trial court abused its discretion when it denied his post-sentencing motion to withdraw his pleas. By entering unconditional pleas, defendant waived any claim of ineffective assistance related to the search and seizure issues. *People v Vonins (After Remand)*, 203 Mich App 173, 175-176; 511 NW2d 706 (1993).

We also decline to address defendant's challenge to the proportionality of his ten-year minimum sentence. Defendant pleaded guilty with knowledge of the sentences he was to receive. Accordingly, he may not advance an appellate challenge to the proportionality of his sentences. *People v Cobbs*, 443 Mich 276, 285 & n 11; 505 NW2d 208 (1993).

We affirm.

/s/ Henry William Saad

/s/ Richard A. Bandstra