

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LENORE KITCHEN,

Defendant-Appellee.

UNPUBLISHED

January 28, 2000

No. 216107

Wayne Circuit Court

LC No. 97-501312

Before: O'Connell, P.J., and Meter and T.G. Hicks*, JJ.

MEMORANDUM.

The prosecutor appeals, by delayed leave granted, defendant's sentence of six months' to twenty years' imprisonment for delivery of more than 50 grams, but less than 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), entered after a guilty plea. We affirm. This appeal is being decided without oral argument, pursuant to MCR 7.214(E).

The prosecutor argues that the trial court abused its discretion by departing from the mandatory minimum sentence and by imposing a disproportionately lenient sentence. We disagree.

A trial court may depart from the statutorily prescribed minimum sentences for certain drug offenses if substantial and compelling reasons justify the departure. MCL 333.7401(4); MSA 14.15(7401)(4). The legislative intent behind mandatory minimum sentencing is to impose stiff minimum sentences on persons engaged in drug trafficking. *People v Fields*, 448 Mich 58, 64; 528 NW2d 176 (1995). Deviations from the mandatory minimum sentence are contemplated only for exceptional cases. *Id.* at 68. A trial court must rely on objective and verifiable factors in departing from the mandatory sentence. *Id.* at 62. The court may consider: (1) whether there are mitigating circumstances surrounding the offense, (2) whether the defendant has a prior record, (3) the defendant's age, (4) the defendant's work history, and (5) factors that arise after the defendant's arrest. *Id.* at 76-77. We review the trial court's determination that objective and verifiable factors constituted substantial and compelling reasons to depart from a mandatory minimum for an abuse of discretion. *Id.* at 78.

* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant had no prior record, had a good work history, and presented several letters from her employers regarding her positive work performance. Defendant appears to have reformed after her arrest and is now a productive citizen who has avoided further drug involvement. Under these circumstances, we conclude that the trial court did not abuse its discretion in finding substantial and compelling reasons to deviate from the mandatory minimum.

We review the proportionality of a sentence for abuse of discretion. *People v Poppa*, 193 Mich App 184, 187; 483 NW2d 667 (1992). Given defendant's history, employment, and reformation after her arrest, along with the quantity of cocaine involved, there is no showing that the trial court abused its discretion in imposing the sentence, which was proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

Affirmed.

/s/ Peter D. O'Connell

/s/ Patrick M. Meter

/s/ Timothy G. Hicks