

**STATE OF MICHIGAN  
COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALVIN RAISHE,

Defendant-Appellant.

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UNPUBLISHED

February 4, 2000

No. 212449

Genesee Circuit Court

LC No. 94-050873 FH

Before: Jansen, P.J., and Collins and J.B. Sullivan\*, JJ.

PER CURIAM.

Defendant pleaded guilty of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), carrying a concealed weapon in a vehicle, MCL 750.227; MSA 28.424, and forgery of license documents/plates, MCL 257.257; MSA 9.1957. He appeals as of right.<sup>1</sup> We affirm defendant's convictions, but remand for entry of a corrected judgment of sentence.

Police officers stopped defendant for speeding and then arrested him after he admitted that he forged the ten-day temporary license tag on his van's window. During an inventory search of the van, officers discovered two chunks of powdered cocaine in brick form, totaling approximately seventy-nine grams, sifters, cut-off drinking straws, scales, and a razor blade. The officers also found bottles containing the controlled substance dihydrocodeinene, and a large knife.

After various delays, including those caused by defendant's withdrawal of his pleas after sentencing, defendant pleaded guilty to the above offenses and was sentenced to time served. Shortly after sentencing, he filed a motion to withdraw his guilty pleas, which the trial court denied.

Defendant now argues that he should have been allowed to withdraw his pleas to possession with intent to deliver less than fifty grams of cocaine and carrying a concealed weapon because a factual basis for those pleas was never established. A motion to withdraw a guilty plea is addressed to the sound discretion of the trial court, and the trial court's decision will not be disturbed unless there is a clear abuse of discretion resulting in a miscarriage of justice. *People v Ward*, 459 Mich 602, 614; 594

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

NW2d 47 (1999); *People v Ovalle*, 222 Mich App 463, 465; 564 NW2d 147 (1997). When reviewing the adequacy of the factual basis for a guilty plea, this Court examines whether the factfinder could properly convict on the facts elicited from the defendant at the plea proceeding. *People v Brownfield (After Remand)*, 216 Mich App 429, 431; 548 NW2d 248 (1996).

Defendant maintains that he was not questioned about an intent to deliver and did not admit to an intent to deliver the cocaine. An intent to deliver may be inferred from all the facts and circumstances. *People v Fetterley*, 229 Mich App 511, 517-518; 583 NW2d 199 (1998). Because of the difficulty in proving an actor's state of mind, minimal circumstantial evidence is sufficient. *Id.* Intent to deliver can be inferred from the quantity of the controlled substance in the defendant's possession and from the way in which the substance was packaged. *People v Wolfe*, 440 Mich 508, 524; 489 NW2d 748 (1992).

Defendant agreed to the trial court's use of information provided at his earlier plea proceeding in order to establish a factual basis for the offenses. At that earlier hearing, defendant acknowledged having three grams of powder cocaine wrapped in a baggie in his van and stipulated to a laboratory report indicating that the substances seized from his van included three plastic bags containing 15.4 grams, 55.6 grams, and 8.2 grams of powder cocaine. This evidence was sufficient to support the inference that defendant possessed the cocaine with the intent to deliver it.

Next, defendant argues that a factual basis for his CCW conviction was not established because the knife confiscated from his vehicle was a hunting knife and was not present in his vehicle as a weapon. The concealed weapons statute, MCL 750.227; MSA 28.424, specifically excepts a "hunting knife" only when the knife is "adapted and carried" as a hunting knife. Whether a knife is "adapted and carried" as a hunting knife within the meaning of the statute depends on the facts and circumstances of the case, e.g., whether it is hunting season, or whether the defendant was hunting or going to or from a hunting excursion at the time he was arrested. *People v Payne*, 180 Mich App 283, 284-285; 446 NW2d 629 (1989). Thus, the mere fact that defendant described his knife as a "hunting knife" does not render the factual recitation for his plea insufficient.

Finally, both defendant and the prosecutor agree that the judgment of sentence erroneously indicates that defendant was convicted of possession with intent to deliver between 50 and 225 grams of cocaine and, therefore, should be corrected to properly reflect that defendant was convicted by guilty plea of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv). Accordingly, we remand for the ministerial task of entering a corrected judgment of sentence.

Defendant's convictions are affirmed and the case remanded for correction of the judgment of sentence. We do not retain jurisdiction.

/s/ Kathleen Jansen  
/s/ Jeffrey G. Collins  
/s/ Joseph B. Sullivan

<sup>1</sup> Because defendant's offenses occurred before December 24, 1994, defendant has an appeal of right from his plea-based convictions. Const 1963, art 1, § 20.