

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JUAN ROMAN REYNA,

Defendant-Appellant.

UNPUBLISHED

May 30, 2000

No. 218734

Allegan Circuit Court

LC No. 98-010924-FH

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction after a jury trial for possession with intent to deliver between 5 and 45 kilograms of marijuana, MCL 333.7401(2)(d)(ii); MSA 14.15(7401)(2)(d)(ii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that his three to seven year sentence is disproportionate in light of his minimal involvement in the crime, and the nature of his prior record. We disagree.

This Court will review a sentence for abuse of discretion. A sentencing court abuses its discretion when it violates the principle of proportionality. *People v Milbourn*, 435 Mich 630, 635; 461 NW2d 1 (1990). A sentence must be proportionate to the seriousness of the crime and the defendant's prior record. *Id.*, 654. The key test of proportionality is whether the sentence reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995).

In sentencing defendant, the court found that it would have been impossible for defendant to have been unaware of the presence of marijuana in the car. Defendant had a poor record, with previous alcohol related convictions, he was on probation at the time of the offense, and he committed an assault shortly afterwards. Given defendant's prior record of two felonies and eight misdemeanors, the quantity of drugs involved, and the fact that he was on probation at the time of the offense, the court did not abuse its discretion in imposing a three to seven year sentence.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra