

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EUGENE STEVENS,

Defendant-Appellant.

UNPUBLISHED

March 5, 2002

No. 230904

Wayne Circuit Court

LC No. 94-009116

Before: Bandstra, P.J., and Murphy and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his guilty plea-based conviction for possession with intent to deliver more than 50 grams but less than 225 grams of cocaine, MCL 333.7401(2)(a)(iii). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Charges against defendant were originally dismissed based on the suppression of evidence due to a violation of the knock-and-announce statute. MCL 780.657. The Supreme Court reversed, and remanded the matter for trial. *People v Stevens (After Remand)*, 460 Mich 626; 597 NW2d 53 (1999). On the day set for trial, defendant accepted a plea offer and sentence bargain. After sentencing, the trial court denied defendant's motion to withdraw his plea.

There is no absolute right to withdraw a guilty plea once it has been accepted by the trial court. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). When a motion to withdraw a guilty plea is made after sentencing, the decision rests within the sound discretion of the trial court. *Id.* That decision will not be reversed on appeal unless there is a clear abuse of discretion resulting in a miscarriage of justice. *Id.*

An unconditional guilty plea waives all claims regarding the capacity of the state to prove factual guilt. *People v New*, 427 Mich 482, 490–493; 398 NW2d 358 (1986). This waiver includes issues regarding the suppression of evidence. *Id.*, 494. A defendant, after pleading guilty, may only raise on appeal those defenses and rights that would preclude the state from obtaining a valid conviction, and implicate the authority of the state to bring a defendant to trial. *Id.*

The trial court did not abuse its discretion in denying defendant's motion. There was no evidence that the plea was coerced or involuntary. Any remaining issue regarding the suppression of evidence was waived by the unconditional guilty plea. *Id.*

Affirmed.

/s/ Richard A. Bandstra

/s/ William B. Murphy

/s/ Christopher M. Murray