

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JIMMY TOMA CHOLAGH,

Defendant-Appellant.

UNPUBLISHED

April 12, 2002

No. 228938

Oakland Circuit Court

LC No. 1999-168740-FC

Before: K.F. Kelly, P.J. and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Defendant appeals by right from a conviction of conspiracy to commit armed robbery, MCL 750.157a; MCL 750.529, for which he was sentenced to eighty-five months to twenty-five years in prison.¹ We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that the court failed to make sufficient factual findings regarding his defense of abandonment.

"A judge who sits without a jury in a criminal case must make specific findings of fact and state conclusions of law." *People v Shields*, 200 Mich App 554, 558; 504 NW2d 711 (1993). The purpose of this requirement is to facilitate appellate review. *People v Johnson (On Rehearing)*, 208 Mich App 137, 141; 526 NW2d 617 (1994). The court's factual findings are sufficient as long as it appears that the court was aware of the issues in the case and correctly applied the law. *People v Legg*, 197 Mich App 131, 134; 494 NW2d 797 (1992). The court is not required to make specific findings of fact regarding each element of the crime charged. *Id.* A court's failure to make factual findings does not require remand for additional articulation where it is clear that the court was aware of the factual issues and resolved them. *Id.* at 134-135; *Johnson, supra* at 141-142.

Here, defendant raised the defense of abandonment. Because the crime of conspiracy is complete upon formation of the agreement to commit another crime and proof of an overt act in

¹ Defendant was also convicted of driving without having a driver's license in his immediate possession, MCL 257.311, for which he was sentenced to time served. That conviction is not at issue here.

furtherance of the agreement is not required, the defendant's subsequent withdrawal from the plot is not a defense. *People v Heffron*, 175 Mich App 543, 547-548; 438 NW2d 253 (1988); *People v Hintz*, 69 Mich App 207, 222; 244 NW2d 414 (1976). The record shows that the court was aware of the issue and correctly applied the law in resolving it. Therefore, the court's findings were sufficient and a remand for additional explanation of its reasoning "would serve no useful purpose." *Legg, supra* at 135.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Martin J. Doctoroff
/s/ Mark J. Cavanagh