

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD HARRELL,

Defendant-Appellant.

UNPUBLISHED
February 17, 2004

No. 243704
Wayne Circuit Court
LC No. 01-001330

Before: Cooper, P.J. and O'Connell and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from a circuit court order denying his motion to withdraw his guilty plea. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded guilty to possession of less than fifty grams of cocaine with intent to deliver, MCL 333.7401(2)(a)(iv), and admitted his habitual offender status, MCL 769.10, pursuant to a preliminary sentence evaluation of lifetime probation. He later sought to withdraw his plea, asserting that the sentence of one to thirty years exceeded the evaluation. A postjudgment motion to withdraw a plea is reviewed for an abuse of discretion resulting in a miscarriage of justice. *People v Davidovich*, 238 Mich App 422, 425; 606 NW2d 387 (1999), *aff'd* 463 Mich 446 (2000).

At the request of a party, the court may state on the record the length of a sentence that appears to be appropriate based on the information then before it. *People v Cobbs*, 443 Mich 276, 283; 505 NW2d 208 (1993). If the court later determines that the sentence is inappropriate, the defendant has an absolute right to withdraw his plea. *People v Everard*, 225 Mich App 455, 458; 571 NW2d 536 (1997). Whether a defendant's sentence exceeded the preliminary evaluation is a question of fact that is reviewed for clear error. *Id.*

At the plea proceeding, the court gave a preliminary evaluation of lifetime probation. When defendant appeared for sentencing, the court explained that it planned to impose a concurrent prison sentence with a one-year minimum because such a sentence was more beneficial to defendant than lifetime probation. Defendant said several times that he understood and never objected to the sentence imposed. Moreover, when asked if there was anything further, defense counsel said nothing about the sentence. Under the circumstances, defendant cannot claim error. *People v Tate*, 244 Mich App 553, 558-559; 624 NW2d 524 (2001).

Although the trial court erroneously considered defendant's motion under MCR 6.500 *et seq.*, this Court will not reverse where the trial court reaches the right result for the wrong reason. *People v Lyon*, 227 Mich App 599, 612-613; 577 NW2d 124 (1998).

Affirmed.

/s/ Jessica R. Cooper
/s/ Peter D. O'Connell
/s/ Karen M. Fort Hood