

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PEDRO HERNANDEZ, a/k/a PEDRO
GONZALES, a/k/a JUAN GARCIA, a/k/a
EDUARDO HERNANDEZ, a/k/a ARMANDO
ACOSTA, a/k/a PAUL TORRES,

Defendant-Appellant.

UNPUBLISHED

October 5, 2004

No. 247705

Wayne Circuit Court

LC No. 02-011106

Before: Borrello, P.J., and Murray and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right his convictions of attempted delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MCL 750.92, and attempted delivery of marijuana, MCL 333.7401(2)(d)(iii); MCL 750.92, entered after a bench trial conducted without an interpreter. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

If it appears to the trial court that the accused is incapable of understanding the charge against him or of presenting a defense due to an inability to understand or speak English, the court “shall appoint” an interpreter for the accused. MCL 775.19a. The decision to provide an interpreter is within the discretion of the trial court. *People v Warren (After Remand)*, 200 Mich App 586, 591; 504 NW2d 907 (1993).

A trial court is not required to affirmatively establish the defendant’s proficiency in English if the issue has not been introduced either by the defendant or as a result of the trial court’s encounters with the defendant. *People v Atsilis*, 60 Mich App 738, 739; 231 NW2d 534 (1975). Defense counsel indicated that defendant did not require an interpreter. In response to the trial court’s inquiry, defendant stated that he understood English. He spoke in English when he answered the trial court’s questions regarding his decision to waive his right to a jury trial. Nothing on the record indicates that defendant made any statement or took any action that should have prompted the trial court to make a further inquiry regarding his ability to understand English. The trial court did not abuse its discretion by failing to provide defendant with an interpreter for trial. *Warren, supra; Atsilis, supra*.

Affirmed.

/s/ Stephen L. Borrello

/s/ Christopher M. Murray

/s/ Karen M. Fort Hood