

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY JAMES VEASLEY,

Defendant-Appellant.

UNPUBLISHED

October 4, 2005

No. 253805

Genesee Circuit Court

LC No. 96-053792-FH

Before: Saad, P.J., and Jansen and Markey, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted the trial court's entry of an amended judgment of sentence. We affirm.

In 1996 a jury convicted defendant of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv). On June 17, 1996, the trial court sentenced defendant as a third habitual offender, MCL 769.11, to twelve to forty years in prison. In *People v Veasley*, memorandum opinion of the Court of Appeals, issued December 23, 1997 (Docket No. 196793), we affirmed defendant's conviction and sentence.

On July 9, 1996, in an attempt to respond to questions from the Department of Corrections, the trial court entered an amended judgment of sentence which indicated that defendant's sentence for the conviction of possession with intent to deliver less than fifty grams of cocaine was twelve months to forty years' imprisonment. Apparently, defendant was paroled after serving the minimum term of twelve months, and was discharged from parole on May 22, 2000.¹

On November 3, 2003, the trial court entered a second amended judgment of sentence, indicating that defendant's sentence for the conviction of possession with intent to deliver less than fifty grams of cocaine was twelve to forty years' imprisonment. The circumstances

¹ Defendant has not supplied documentation to support his assertion that he was paroled and then discharged from parole. The Michigan Offender Tracking System indicates that defendant's status is that of an active prisoner, and that he was released to the circuit court on a writ of habeas corpus in October 2003.

surrounding the trial court's decision to enter the second amended judgment of sentence are not clear from the record. We granted defendant's delayed application for leave to appeal the second amended judgment of sentence.

We affirm the second amended judgment of sentence. In this case, the trial court did not resentence defendant after initially imposing an invalid sentence, as in *People v Gregorczyk*, 178 Mich App 1; 443 NW2d 816 (1989), or after vacating an order of parole, as in *People v Young (On Remand)*, 220 Mich App 420; 559 NW2d 670 (1996). Rather, the trial court entered the second amended judgment to correct a clerical error in the first amended judgment. When the trial court entered the first amended judgment of sentence, it inadvertently indicated that defendant's minimum term for his conviction of possession with intent to deliver less than fifty grams of cocaine was twelve months rather than twelve years. The designation of defendant's minimum term as twelve months rather than twelve years was a clerical error. The trial court had the authority to enter the second amended judgment of sentence to correct this error. MCR 6.435.

Affirmed.

/s/ Henry William Saad

/s/ Kathleen Jansen

/s/ Jane E. Markey