

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODERICK LEE GREEN,

Defendant-Appellant.

UNPUBLISHED

September 24, 1996

No. 180538

LC No. 94-009059-FH

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.*

MEMORANDUM.

Defendant entered a conditional plea of guilty to possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and was sentenced to five to twenty years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not clearly err in denying defendant's motion to suppress the evidence. *People v Faucett*, 442 Mich 153, 170; 499 NW2d 764 (1993). The police officers were excused from complying with the knock-and-announce statute, MCL 780.656; MSA 28.1259(6), when an occupant of the house observed the officers' arrival at the house and when that individual and other occupants of the house were observed immediately running to other areas of the house. *People v Samuel Williams (After Remand)*, 198 Mich App 537, 544-546; 499 NW2d 404 (1993).

The trial court did not err in also citing in its decision the fact that the officers were aware that there may have been weapons on the premises. Even if this was not an immediate reason why the police did not comply with the knock-and-announce statute, all members of the search warrant team were aware of information that a weapon was recently present at these premises. Thus, there was

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

additional evidence to find that immediate entry was necessary for the officers' safety. Cf. *People v Asher*, 203 Mich App 621, 623-624; 513 NW2d 144 (1994).

The prosecutor did not violate either the terms or the spirit of the plea agreement on the sentence recommendation. The prosecutor agreed to recommend a sentence within the guidelines. The prosecutor's comments at the time of sentencing addressed the statutorily prescribed minimum sentence (which was also the minimum term available under the guidelines) or one year. Because the guidelines did not include lifetime probation, the prosecutor did not breach the agreement by arguing against lifetime probation, as recommended by the probation department. *People v Swirles*, 206 Mich App 416, 418-419; 522 NW2d 665 (1994). While the prosecutor did not expressly recommend a sentence within the guidelines, her comments were not inconsistent with a guidelines' sentence. Resentencing is therefore not required.

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan