

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY BERNARD BOST,

Defendant-Appellant.

UNPUBLISHED

September 15, 1998

No. 203996

Macomb Circuit Court

LC No. 96-002184 FH

Before: Whitbeck, P.J., McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

The trial court convicted defendant of delivery of 50 grams or more, but less than 225 grams of cocaine, MCL 333.7401(1) and (2)(a)(iii); MSA 14.15(7401)(1) and (2)(a)(iii), following a bench trial. The trial court sentenced defendant to seven to twenty years' imprisonment. Defendant appeals as of right. We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

The trial court did not clearly err by finding that there was no entrapment. *People v Ealy*, 222 Mich App 508, 510, 512; 564 NW2d 168 (1997). The testimony found credible by the trial court established that the police did nothing more than present defendant with an opportunity to commit the crimes for which he was charged. *Id.*, 510. Additionally, to the extent that defendant's claim of "escalating entrapment" is a claim of "sentencing entrapment," defendant's lack of hesitation in increasing the amount and types of controlled substances he sold to the undercover officers defeats this claim. *Id.* at 511. Finally, although defendant could have been arrested at an earlier point, the delay in his arrest was justified on the ground that an earlier arrest would have impaired the ability of the police to conduct an ongoing narcotics investigation, depriving the police of the leeway to probe the depth and extent of the criminal enterprise, to determine whether coconspirators exist and to trace illegal drugs deeper into the distribution hierarchy. *Id.* at 511-512.

Affirmed.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks

* Circuit judge, sitting on the Court of Appeals by assignment.