

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH PEDRO GONZALES,

Defendant-Appellant.

UNPUBLISHED

April 27, 1999

No. 203830

Ingham Circuit Court

LC Nos. 91-062146 FH &

97-071527 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant pleaded guilty of possession with intent to deliver 50 grams or more, but less than 225 grams, of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), and of absconding while on bond, MCL 750.199a; MSA 28.396(1). He was sentenced to serve consecutive prison terms of ten to twenty years and two to four years, respectively. Defendant appeals as of right, and we remand to the trial court in order to give defendant an opportunity to withdraw his pleas. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant requests a remand for “reconsideration of the sentences imposed,” arguing that the trial court erred by failing to either reject his guilty pleas or give him the opportunity to withdraw them before imposing a consecutive sentence on the absconding conviction without any credit for jail time served, contrary to the prosecutor’s stipulation to awarding jail time credit against both sentences. The prosecutor confesses the error and contends the matter should be remanded to permit defendant to withdraw his pleas and/or to renegotiate the sentencing agreement. In accordance with the relief requested by both defendant and the prosecutor, we remand this case to the circuit court in order to give defendant an opportunity to affirm or withdraw his guilty pleas.¹

Remanded. We do not retain jurisdiction.

/s/ Hilda R. Gage

/s/ Roman S. Gribbs

/s/ Joel P. Hoekstra

¹ Because defendant has only asserted an error in plea/sentencing procedure, rather than any invalidity in the sentences imposed themselves, simply remanding this case for “reconsideration of the sentences imposed” would be inappropriate. See, e.g., *In Re Jenkins*, 438 Mich 364; 475 NW2d 279 (1991).