

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RASHEE DAMON BRADLEY,

Defendant-Appellant.

UNPUBLISHED

December 18, 2003

No. 241578

Wayne Circuit Court

LC No. 01-010595

Before: Fitzgerald, P.J., and Neff and White, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v), and was sentenced to a prison term of one month to four years. Defendant appeals as of right, challenging only the sentence imposed. We remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Possession of less than twenty-five grams of cocaine is a class G offense. MCL 777.13. The guidelines as scored placed defendant in the A-I category, with a minimum sentence range of zero to three months. MCL 777.68. Because the upper limit of the guidelines range was less than eighteen months, the court was required to impose an intermediate sanction¹ unless it found a substantial and compelling reason to sentence defendant to the jurisdiction of the department of corrections. MCL 769.34(4)(a). “Thus MCL 769.34(4)(a) required the circuit court here to set forth a substantial and compelling reason for imposing a prison sentence, even though its minimum length . . . did not exceed the upper end of the range established by the guidelines.” *People v Stauffer*, 465 Mich 633, 636; 640 NW2d 869 (2002).

Although the trial court sentenced defendant within the range established by the guidelines, the court did not articulate any reasons to sentence defendant to the jurisdiction of the department of corrections. The sentence imposed is therefore invalid. *Stauffer, supra*. Although defendant was paroled from prison on September 6, 2003, he is subject to the continuing jurisdiction of the department of corrections as a result of the invalid sentence. Under these circumstances, this issue is not moot and it is appropriate to remand to the trial court for

¹ An intermediate sanction does not include a prison sentence. *Stauffer, infra* at 635.

imposition of an intermediate sentence or articulation of a substantial and compelling reason for imposition of a prison sentence. *Id.*

Remanded to the trial court for further proceedings consistent with this opinion.
Jurisdiction is not retained.

/s/ E. Thomas Fitzgerald

/s/ Janet T. Neff

/s/ Helene N. White