

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NAEL IBRAHIM SHAMMA,

Defendant-Appellant.

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UNPUBLISHED

May 17, 1996

No. 175034

LC No. 94-049731-FH

Before: Kavanagh, T.G.,\* P.J., and R.B. Burns\*\* and G.S. Allen,\*\* JJ.

MEMORANDUM.

Defendant pleaded guilty to breaking and entering a building with intent to commit larceny, MCL 750.110; MSA 28.305, and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to 6-1/2 to 15 years' imprisonment, and now appeals as of right. During the pendency of this appeal, the trial court denied defendant's motion to vacate the habitual offender conviction. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

In reviewing defendant's arguments on appeal, we note the proper focus is not on whether the habitual offender conviction should be vacated, but rather whether the plea to both the substantive offense and the supplemental charge should be vacated, thus permitting the case to proceed to trial on all charges that had been brought or could have been brought if the plea was not entered. MCR 6.312.

We also note that defendant made no offer of proof by affidavit in support of his post-sentencing motion in the trial court, but rather relied on the existing record as the factual basis of the motion. Having considered the arguments and record presented to the trial court with regard to the motion, we find no abuse of discretion in the trial court's refusal to allow withdrawal of the plea.

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\*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

\*\*Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

Further, we find no record support for defendant's claim on appeal that he gave an unknowing or unintelligent plea as a result of any delay in notice. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). See also MCR 6.311(C); *People v Jackson*, 203 Mich App 607, 612-613; 513 NW2d 206 (1994); *People v Tippery*, 188 Mich App 445; 470 NW2d 431 (1991); *People v King*, 156 Mich App 254; 401 NW2d 627 (1986); *People v Boone*, 68 Mich App 650, 653; 244 NW2d 4 (1976).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.