

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EVERETT C. OWENS,

Defendant-Appellant.

UNPUBLISHED

May 17, 1996

No. 180405

LC No. 94-002287

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

MEMORANDUM.

Defendant pleaded nolo contendere to assault with intent to murder, MCL 750.83; MSA 28.278, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). For those respective convictions, he was sentenced to five to fifteen years' imprisonment and two years' consecutive imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

We decline to address the merits of defendant's first issue concerning the prosecution's decision to charge him with assault with intent to murder. Even if this issue was not waived by defendant's unconditional plea, he failed to raise the issue in the trial court. *People v Rashid*, 154 Mich App 762, 764; 398 NW2d 525 (1986).

We also decline to address the merits of defendant's challenge to the factual basis of his plea. Defendant failed to raise this issue before the trial court in a motion to withdraw his plea. He also did not file a motion to remand this matter back to the trial court. *People v Kaczorowski*, 190 Mich App 165, 172-173; 475 NW2d 861 (1991). The challenge to the factual basis of defendant's plea is

*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.

therefore waived on appeal. *People v Beasley*, 198 Mich App 40, 42-43; 497 NW2d 200 (1993); MCR 6.311(C).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.