

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GREGORY J. MACK,

Defendant-Appellant.

UNPUBLISHED

May 21, 1996

No. 183237

LC No. 94-131423-FH

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

MEMORANDUM.

Defendant pleaded guilty to possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v), and was sentenced as a repeat controlled substance offender, MCL 333.7413; MSA 14.15(7413), to one to eight years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Having limited our review to the lower court record, *Amorello v Monsanto Corp*, 186 Mich App 324, 330; 463 NW2d 487 (1990), we hold that defendant's claims concerning the voluntariness of his plea and the plea-taking procedure are not preserved for appeal because defendant did not move to withdraw his plea in the trial court. MCR 6.311(C); *People v Gaines*, 198 Mich App 130; 497 NW2d 310 (1993). We also find that the existing record does not support defendant's claim of ineffective assistance of counsel, and are not persuaded that the case should be remanded to the trial court for proceedings on this claim. *People v Thew*, 201 Mich App 78, 90; 506 NW2d 547 (1993); *People v Armendarez*, 188 Mich App 61, 75; 468 NW2d 893 (1991).

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

**Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

Next, the record is clear that defendant, in consultation with his attorney, agreed to the one- to eight-year sentence even though it did not conform with the initial agreement between the parties. Therefore, defendant is not entitled to withdraw his plea pursuant to *People v Cobbs*, 443 Mich 276, 283; 505 NW2d 208 (1993).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.