

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANDRE BROWN,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 174671

LC No. 93-063622-FC

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

MEMORANDUM.

Defendant pleaded guilty to accessory after the fact to murder, MCL 750.505; MSA 28.773, and was sentenced to five years' probation, with the first year to be served in the county jail and the second year on an electronic tether. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Contrary to what defendant argues, the court did not lose jurisdiction to sentence him at the rescheduled sentencing hearing simply because the court indicated at the original hearing that it would allow him to withdraw his plea and would remand the case to the district court for a preliminary examination. Defense counsel stated at the end of the first hearing and at the rescheduled hearing that defendant had reconsidered his request for plea withdrawal and would accept the stated sentence of the court. Under the circumstances, there was no error in sentencing defendant.

Next, at the rescheduled hearing, the trial court announced the sentence it intended to impose. Because the sentence exceeded the agreed-upon prosecutor's recommendation, defendant was given an opportunity to withdraw his plea. Defendant chose not to do so with full knowledge of the

*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.

consequences of his plea. We therefore find no error. *People v Killebrew*, 416 Mich 189, 209; 330 NW2d 834 (1982).

Affirmed.

/s/ Thomas G. Kavanagh
/s/ Robert B. Burns
/s/ Glenn S. Allen, Jr.