

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL JARVIS KIRBY,

Defendant-Appellant.

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UNPUBLISHED

May 24, 1996

No. 182763

LC No. 94-001895-FC

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

MEMORANDUM.

Defendant pleaded guilty to voluntary manslaughter, MCL 750.321; MSA 28.553, and was sentenced to five to fifteen years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not abuse its discretion in scoring ten points at Offense Variable 3 because there was sufficient evidence supporting the scoring decision. *People v Hernandez*, 443 Mich 1, 16-17; 503 NW2d 629 (1993); *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 197 (1992).

Defendant was sentenced in accordance with the sentencing agreement, and has waived the right to challenge his sentence because he made no attempt to withdraw the plea. *People v Blount*, 197 Mich App 174, 175-176; 494 NW2d 829 (1992).

Affirmed.

/s/ Thomas G. Kavanagh

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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.

/s/ Robert B. Burns  
/s/ Glenn S. Allen, Jr.