

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK ANTHONY GOODING,

Defendant-Appellant.

UNPUBLISHED

August 13, 1996

No. 176740

LC Nos. 93-130183-FH;

94-132377-FH

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

MEMORANDUM.

Defendant pleaded guilty in LC No. 93-130183-FH of receiving or concealing stolen property over \$100, MCL 750.535; MSA 28.803, and pleaded nolo contendere in LC No. 94-132377-FH of resisting or obstructing a police officer, MCL 750.479; MSA 28.747. He also pleaded guilty in each file of habitual offender, third offense, MCL 769.11; MSA 28.1083. He was sentenced to one year in the county jail. He appeals as of right. We remand. This case has been decided without oral argument pursuant to MCR 7.214(A).

Although defendant did not move to withdraw his pleas below, there is some record support for his claim that the pleas were induced, at least in part, upon the assurance that he would not be required to return to prison on an old parole violation. However, the record is not adequately developed for us to make a definitive ruling on the issue. In the exercise of our plenary powers, MCR 7.216(A)(7), we therefore remand the matter to the trial court for an evidentiary hearing on whether defendant was misled into believing his pleas in this case would not result in a parole violation and additional prison time

*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.

in the prior case. If the trial court finds that defendant was misled, he shall be given the opportunity to withdraw his pleas. If the court finds that he was not misled, his plea-based convictions and sentences shall stand.

Remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.