

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS BRIAN CALHOUN,

Defendant-Appellant.

UNPUBLISHED

August 16, 1996

No. 181484

LC No. 94-037259-FH

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

MEMORANDUM.

Defendant pleaded nolo contendere to malicious destruction of a building over \$100, MCL 750.380; MSA 28.612, and entering without breaking, MCL 750.115; MSA 28.310. In exchange for defendant's pleas, the prosecutor agreed to dismiss a third charge of assault and battery, as well as charges in an unrelated case for obstructing a fireman and habitual offender-second. Defendant was sentenced to one to four years' imprisonment for the malicious destruction conviction and ninety days in the county jail for the entering without breaking conviction. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The record reveals that the trial court did not threaten defendant with a longer sentence when defendant challenged the accuracy of the presentence investigation report. The court only explained that, if an evidentiary hearing was held, it could change defendant's sentence either way. The trial court declined to conduct an evidentiary hearing when defendant was not certain he wanted the hearing and he could not cite any factual errors in the presentence investigation report. This was not error because defendant did not make an effective challenge to the accuracy of the report. See *People v Walker*,

*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.

428 Mich 261, 267-268; 407 NW2d 367 (1987); *People v Greene*, 116 Mich App 205, 210; 323 NW2d 337 (1982), rev'd on other grounds 414 Mich 896; 323 NW2d 4 (1982).

The trial court did not abuse its discretion in denying defendant's motion to withdraw his pleas. *People v Jones*, 190 Mich App 509, 512; 476 NW2d 646 (1991). Defendant failed to provide the court with a valid reason why his pleas should be withdrawn in the interest of justice. He therefore failed to meet his burden under MCR 6.310(B). *People v Spencer*, 192 Mich App 146, 151; 480 NW2d 308 (1991).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.