

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL WESTBROOK,

Defendant-Appellant.

UNPUBLISHED

September 27, 1996

No. 160618

LC No. 91-053683-FH;

92-058929-FH

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.*

MEMORANDUM.

In lower court docket no. 91-053683-FH, defendant pleaded nolo contendere to third-degree criminal sexual conduct, MCL 750.520d(1)(a); MSA 28.788(4)(1)(a), and guilty to habitual offender, third offense, MCL 769.11; MSA 28.1083, for which he was sentenced to two to thirty years' imprisonment. In lower court docket no. 92-058929 FH, defendant pleaded guilty to failing to return rental property, MCL 750.362a; MSA 28.594(1), and was sentenced to one to two years' imprisonment. The sentences are to be served concurrently. Defendant appeals as of right. We affirm. This appeal has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not abuse its discretion in denying defendant's motion to withdraw his pleas. *People v Eloby (After Remand)*, 215 Mich App 472, 475; 547 NW2d 48 (1996). Moreover, defendant is not entitled to a remand for an evidentiary hearing because his affidavits fail to establish a factual question as to whether his pleas were offered voluntarily, *People v Taylor*, 383 Mich 338; 175 NW2d 715 (1970), and because the record lacks any support for his claims, *People v Schirle*, 105 Mich App 381, 385; 306 NW2d 520 (1981).

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

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan