

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAMELA BOYD,

Defendant-Appellant.

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UNPUBLISHED

September 27, 1996

No. 180460

LC No. 94-036990-FC

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

MEMORANDUM.

Defendant pleaded guilty to armed robbery, MCL 750.529; MSA 28.797, and was sentenced to fifteen to forty years' imprisonment. She appeals as of right. We affirm. This case 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 her guilty plea, which alleged that she had not knowingly, voluntarily and intelligently waived the right to appeal her conviction as part of the plea agreement. *People v Jones*, 190 Mich App 509, 512; 476 NW2d 646 (1991). The record of the plea hearing supports the trial court's finding that defendant's waiver was voluntary, knowing and intelligent. *People v Rodriguez*, 192 Mich App 1, 6; 480 NW2d 287 (1991).

Because defendant waived her right to appeal her conviction, her remaining arguments regarding the motion to withdraw her guilty plea are waived on appeal. *Rodriguez, supra*. Nonetheless, the trial court did not err in refusing to conduct an evidentiary hearing on defendant's claim that she was promised leniency by her trial counsel. Defendant failed to make an adequate offer of proof to entitle her to an evidentiary hearing on this issue. *People v Dwayne Jackson*, 203 Mich App 607, 612-613; 513 NW2d 206 (1994). Also, the plea bargain was not illusory. *People v Gonzalez*, 197 Mich App

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

385, 391; 496 NW2d 312 (1992). Defendant could have been properly convicted of both armed robbery and assault with intent to do great bodily harm. *People v Robideau*, 419 Mich 458, 487-488; 355 NW2d 592 (1984).

The trial court did not abuse its discretion in scoring Offense Variable 7 at fifteen points. *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). There was adequate evidence in the record to support the trial court's scoring decision because defendant planned this crime with the victim's advanced age in mind. *People v Hernandez*, 443 Mich 1, 16; 503 NW2d 629 (1993); *People v Piotrowski*, 211 Mich App 527, 531; 536 NW2d 293 (1995). Nor did the court abuse its discretion in scoring Offense Variable 1 at fifteen points because the evidence revealed that defendant beat the victim with a telephone receiver, thus using the receiver as a weapon. *Hernandez, supra*.

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan