

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE DARBY,

Defendant-Appellant.

UNPUBLISHED

October 1, 1996

No. 174886

LC No. 90-001652

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

MEMORANDUM.

Pursuant to an agreement, defendant pleaded guilty to second-degree murder, MCL 750.317; MSA 28.549, and was sentenced to forty to eighty years' imprisonment. He 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 finding defendant competent to stand trial. *People v Garfield*, 166 Mich App 66, 73; 420 NW2d 120 (1988). The denial of defendant's motion to withdraw his plea was not an abuse of discretion, *People v Jones*, 190 Mich App 509, 512; 474 NW2d 646 (1991), nor was the denial of his request for the appointment of an expert to assist him in preparation of his appeal. Next, defendant failed to properly preserve his challenge to the sufficiency of the factual basis for his plea. *People v Kaczorowski*, 190 Mich App 165, 172-173; 475 NW2d 861 (1991). The trial court did not err in failing to sua sponte disqualify itself. MCR 2.003. Lastly, defendant's sentence, which is within the recommended guidelines' range, does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

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

/s/ Joseph B. Sullivan