

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODNEY ALTON SLAYTON,

Defendant-Appellant.

UNPUBLISHED

December 27, 1996

No. 169293

Saginaw County

LC No. 93-007302-FC

AFTER REMAND

Before: J.H. Gillis,* P.J., and J.W. Fitzgerald** and W.R. Beasley,* JJ.

MEMORANDUM.

This case is before this Court following a remand for an evidentiary hearing on defendant's claims that his nolo contendere pleas were involuntary and that defense counsel was ineffective. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1).

Although defendant testified at the evidentiary hearing that his attorney had informed him that the sentencing judge agreed to impose a maximum sentence of ten years, his testimony was contradicted by his attorney, who denied ever making such a statement or meeting with the sentencing judge before sentencing. Moreover, the judge indicated that it was her policy never to conduct in-chambers conferences of the type defendant alleges to have been held, for the very reason to avoid later accusations of off-the-record deals. The trial court rejected defendant's testimony as being incredible. According deference to the trial court's determination of credibility, we find no clear error in its finding that defendant was not misinformed about the sentencing consequences of his pleas. MCR 2.613(C); *People v Marshall*, 204 Mich App 584, 587; 517 NW2d 554 (1994). The trial court did not abuse its discretion in denying defendant's motion to withdraw his pleas to third-degree criminal sexual conduct and habitual offender, second offense. *People v Eloby (After Remand)*, 215 Mich App 472, 474-475; 547 NW2d 48 (1996).

* Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

** Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

Affirmed.

/s/ John H. Gillis

/s/ John W. Fitzgerald

William R. Beasley, J., not participating.