

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee.

v

ANTONIO MONTWON MARSHALL,

Defendant-Appellant.

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UNPUBLISHED

February 25, 1997

No. 183484; 183485

Genesee Circuit Court

LC No. 94-05079,

94-050970

Before: Bandstra, P.J., and Hoekstra and J.M. Batzer,\* JJ.

MEMORANDUM.

In Docket No. 94-050759, defendant pleaded no contest to one count of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and was sentenced to 6 to 10 years' imprisonment. In Docket No. 94-050970, defendant pleaded guilty to second-degree murder, MCL 750.317; 28.549, and one count of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and was sentenced to 23 to 50 years' imprisonment for the second-degree murder conviction, and 6 to 10 years' imprisonment for the assault conviction. Defendant's cases were consolidated on appeal. We affirm.

Defendant first argues that the trial court signed an order in Docket No. 94-050759 allowing him to withdraw his guilty plea which must be honored. Our review of the record convinces us that defendant is misrepresenting the order at issue. The order plainly states that the defendant is permitted to withdraw his "Motion for Withdrawal of Guilty Plea," and not withdraw his plea as defendant now asserts on appeal. Accordingly, we find this issue wholly without merit.

Defendant next argues that the trial court in Docket No. 94-050970 improperly and unconstitutionally denied his request for a continuance prior to a scheduled trial date. Because defendant entered unconditional guilty pleas prior to the date of the scheduled trial, review of this issue is waived. See *People v Bordash*, 208 Mich App 1, 4; 527 NW2d 17 (1994). We note however, that the record does not support defendant's claim that the continuance requested was in fact denied.

Finally, defendant argues that his pleas were not voluntarily or intelligently made. Because defendant apparently abandoned his motions to withdraw his pleas below, the trial courts never

considered these arguments. Accordingly, they are not properly before us on appeal. Defendant's failure to pursue these claims in the trial court precludes appellate review. See *People v Dixon*, 217 Mich App 400, 410; 552 NW2d 663 (1996).

Affirmed.

/s/ Richard A. Bandstra

/s/ Joel P. Hoekstra

/s/ James M. Batzer