

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES LEE COOLEY,

Defendant-Appellant.

UNPUBLISHED

March 7, 1997

No. 188715

Washtenaw Circuit

LC Nos. 94-003222-FC;

94-003223-FC

Before: Michael J. Kelly, P.J., and Smolenski and W.J. Giovan,* JJ.

MEMORANDUM.

Defendant pleaded guilty to three counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(2)(1)(a), and was sentenced to concurrent terms of five to fifteen years' imprisonment. Defendant appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant stated under oath at the plea hearing that, apart from the plea agreement, no other promises were made in exchange for his guilty pleas. Courts will generally reject a defendant's assertion that promises of leniency were made where the defendant has already sworn on the record that no such promises were made. *People v Jackson*, 203 Mich App 607, 612; 513 NW2d 206 (1994). After defendant waived the attorney-client privilege, defense counsel stated under oath that he specifically told defendant prior to the plea hearing that there were no promises of probation or delayed sentencing. It was up to the trial court to determine whether the pleas were induced by a promise of leniency which went unfulfilled. *People v Hall*, 399 Mich 288, 291; 249 NW2d 62 (1976); *Guilty Plea Cases*, 395 Mich 96, 127; 235 NW2d 132 (1975). Because there was no basis in the record to support defendant's allegation of promises of leniency, other than defendant's self-serving post-conviction allegation, the trial court did not abuse its discretion in denying defendant's motion to withdraw his guilty pleas. *Jackson, supra*.

* Circuit judge, sitting on the Court of Appeals by assignment.

Affirmed.

/s/ Michael J. Kelly

/s/ Michael R. Smolenski

/s/ William J. Giovan