

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROGER PHILLIP GRUBB,

Defendant-Appellant.

UNPUBLISHED

March 28, 1997

No. 190160

Macomb Circuit Court

LC No. 94-001800-FC

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded guilty to kidnapping, MCL 750.349; MSA 28.581, second-degree criminal sexual conduct, MCL 750.520c(1)(c); MSA 28.788(3)(1)(c), and habitual offender, third offense, MCL 769.11; MSA 28.1083. He was sentenced to enhanced terms of five to twenty years' imprisonment for both the kidnapping and the CSC convictions, to be served concurrently. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

In the sole issue on appeal, defendant essentially attacks the validity of his plea. Under MCR 6.311(C), he was required to move to withdraw the plea in the trial court. His failure to do so constitutes a waiver of his challenge to the validity of the plea. *People v Dixon*, 217 Mich App 400, 410; 552 NW2d 663 (1996). In any event, the trial court did not abuse its discretion in denying defendant's motion for plea withdrawal because defendant testified at the plea hearing that he was to receive a five-year sentence recommendation and that there were no other promises regarding the sentences to be imposed. *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/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar