

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH T. ULLMER,

Defendant-Appellant.

UNPUBLISHED

April 1, 1997

No. 188443

Muskegon Circuit Court

LC No. 94-037454-FH

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

MEMORANDUM.

Pursuant to a plea agreement, defendant tendered a conditional plea of guilty to being a prisoner in possession of a controlled substance (to wit: dihydrocodeinone), MCL 800.281(4); MSA 28.1621(4), and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to four to seven-and-a-half years' imprisonment, to be served consecutive to a sentence he was then serving. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not err as a matter of law in denying defendant's motion for dismissal based on the claim that the instant prosecution violated his double jeopardy rights. An administrative proceeding which could result in the forfeiture of good time credits combined with a conviction and sentence in a criminal proceeding in a court of justice is not violative of the Fifth Amendment prohibition against double jeopardy. *People v White*, 212 Mich App 298, 304-305; 536 NW2d 876 (1995); *People v Marrow*, 210 Mich App 455, 465; 534 NW2d 153 (1995); *People v Bachman*, 50 Mich App 682, 683-684; 213 NW2d 800 (1973),

*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.

The principle of collateral estoppel does not apply to the facts and circumstances of this case. The issue of whether defendant was guilty of possession of a controlled substance was not actually litigated in the administrative proceeding. *People v Gates*, 434 Mich 146, 154; 452 NW2d 627 (1990); *Porter v Royal Oak*, 214 Mich App 478, 485; 542 NW2d 905 (1995); *Bullock v Huster*, 209 Mich App 551, 556; 532 NW2d 202 (1995).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar