

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD FRANCIS WROBLEWSKI,

Defendant-Appellant.

UNPUBLISHED

April 4, 1997

Nos. 191071; 192123

Kent Circuit Court

LC No. 94-002936-FH

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

MEMORANDUM.

Defendant pleaded guilty to operating a motor vehicle while under the influence of intoxicating liquor, third offense, MCL 257.625(6); MSA 9.2325(6), and was sentenced to five years' probation, with the first year to be served in the county jail. Defendant subsequently pleaded guilty to violating the terms of his probation and was sentenced to eighteen to sixty months' imprisonment. Defendant filed separate appeals as of right from both the original conviction and sentence and from the probation violation. We affirm. These appeals have been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not abuse its discretion when it denied defendant's post-sentencing motion to withdraw his guilty plea to the OUIL-3d charge. The record establishes that defendant's claim of innocence was blatantly frivolous and that defendant's request for the withdrawal was motivated by sentencing concerns. *People v Eloby (After Remand)*, 215 Mich App 472, 474-475; 547 NW2d 48 (1996); *People v Holmes*, 181 Mich App 488, 492, 495, 496; 449 NW2d 917 (1989); *People v Scott*, 115 Mich App 273, 277; 320 NW2d 242 (1982). Moreover, under such circumstances, the trial court correctly rejected defendant's request for an evidentiary hearing to address whether defense

*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.

counsel had rendered ineffective assistance of counsel by failing to pursue plea withdrawal before sentencing.

Defendant may not attack the proportionality of the sentence imposed as a result of the probation violation where defendant pleaded guilty with knowledge of the sentence to be imposed. *People v Cobbs*, 443 Mich 276, 285 n 11; 505 NW2d 208 (1993).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar