

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY DAVID WALKER, a/k/a DAVID WALKER,

Defendant-Appellant.

UNPUBLISHED

April 4, 1997

No. 191277

Recorder's Court

LC No. 95-005991-FC

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

MEMORANDUM.

Defendant pleaded guilty to assault with intent to murder, MCL 750.83; MSA 28.278, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). For those respective convictions, he was sentenced to 7-1/2 to 15 years' imprisonment and two years' consecutive imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant filed a motion after sentencing to withdraw his plea, contending that his trial attorney gave him incomplete advice regarding the availability of a claim of self-defense. There is no absolute right to withdraw a guilty plea once it has been accepted by the trial court. When a motion to withdraw a guilty plea is made after sentencing, the decision whether to grant it rests within the sound discretion of the trial court. That decision will not be disturbed on appeal unless there is a clear abuse of discretion resulting in a miscarriage of justice. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995). In this case, there was no abuse of discretion because the facts of this case clearly show that a claim of self-defense was unavailable, as defendant was advised by his attorney.

*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.

Next, the trial court held the requisite hearing at sentencing under MCL 769.1(3); MSA 28.1072(3), so there is no need to remand.

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar