

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BERNARD PAUL KNASIAK,

Defendant-Appellant.

UNPUBLISHED

April 25, 1997

No. 192499

Washtenaw Circuit Court

LC No. 94-2409-FH

Before: Griffin, P.J., and Doctoroff and Markman, JJ.

PER CURIAM.

Defendant was charged with breaking and entering with intent to commit a kidnapping, MCL 750.110; MSA 28.305, attempted kidnapping, MCL 750.349; MSA 28.581 and MCL 750.92; MSA 28.287, and assault or assault and battery, MCL 750.81; MSA 28.276. Pursuant to a plea agreement, the breaking and entering and assault charges were dismissed, and defendant pleaded nolo contendere to the attempted kidnapping charge. The trial court relied on the preliminary examination transcript as the factual basis to support defendant's plea. Defendant was sentenced to eight months' incarceration for his conviction but with eight months credit for time already served. We affirm.

Defendant first argues that he was erroneously bound over to stand trial for attempted kidnapping and breaking and entering with intent to kidnap. However, by pleading no contest, defendant waived the issue whether the prosecutor introduced sufficient evidence at the preliminary examination. *People v New*, 427 Mich 482, 494-495; 398 NW2d 358 (1986); *People v Vonins (After Remand)*, 203 Mich App 173, 175; 511 NW2d 706 (1993).

Defendant also argues that the factual basis contained in the preliminary examination transcript was insufficient to support his no contest plea to attempted kidnapping. Specifically, defendant maintains that the elements of kidnapping or attempted kidnapping have not been established because the preliminary examination transcript does not demonstrate that he moved the victim. We disagree.

In reviewing the adequacy of the factual basis for a plea, this Court determines whether the factfinder could properly convict on the facts relied on in accepting the plea. *People v Brownfield (After Remand)*, 216 Mich App 429, 431; 548 NW2d 248 (1996); see *People v Eloby (After*

Remand), 215 Mich App 472, 479; 547 NW2d 48 (1996). The factual basis is sufficient to support defendant's no contest plea if inculpatory inferences can be drawn from the facts presented that defendant intended to kidnap the victim, and that he acted in furtherance of that intent, beyond mere preparation. See *People v Jones*, 443 Mich 88, 100; 504 NW2d 158 (1993). Contrary to defendant's contention, movement of the victim is not necessary to establish the commission of an attempted kidnapping. *People v Lucas*, 47 Mich App 385, 387; 209 NW2d 436 (1973).

At the preliminary examination, the prosecutor introduced evidence that defendant entered a home and told the homeowner that he wanted the victim. After defendant found the victim in the bathroom, he told her that she was coming with him and then tried to forcibly remove her from the home. We hold that this evidence provides a factual basis sufficient to support defendant's nolo contendere plea of attempted kidnapping.

Affirmed.

/s/ Richard Allen Griffin

/s/ Martin M. Doctoroff

/s/ Stephen J. Markman