

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES LEONARD TURNER,

Defendant-Appellant.

UNPUBLISHED

February 25, 1997

No. 192301

Kent Circuit Court

LC No. 94-003639-FH

Before: Sawyer, P.J., and Neff and Allen L. Garbrecht,* JJ.

MEMORANDUM.

Defendant appeals as of right the circuit court's denial of his motion to withdraw his plea of no contest to possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7402)(2)(a)(v), entered pursuant to a plea agreement and for which he was sentenced to thirty months of probation. We affirm.

There is no absolute right to withdraw a guilty plea once it has been accepted. *People v Eloby*, 215 Mich App 472, 474-475; 547 NW2d 48 (1996). The decision whether to grant a motion to withdraw a plea made after sentencing is within the sound discretion of the trial court. *Id.* We will not disturb that decision absent a clear abuse of discretion resulting in a miscarriage of justice. *Id.*

Although defendant's motion to withdraw contained a conclusory assertion of innocence, defendant has not offered an alternative explanation of the events which formed the factual support for his plea. Where, as here, the defendant fails to rebut the factual basis for a previously accepted plea, the court may in the exercise of its discretion deny the plea. *People v Holmes*, 181 Mich App 488, 496-497; 449 NW2d 917 (1989).

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ David H. Sawyer
/s/ Janet T. Neff
/s/ Allen L. Garbrecht