

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WALLACE J. SCHMIDT,

Defendant-Appellant.

UNPUBLISHED

July 8, 1997

No. 190219

Oakland Circuit Court

LC No. 95-139528 FC

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Defendant was convicted by jury of solicitation of murder, MCL 750.157b; MSA 28.354(2), and sentenced to five to twenty years' imprisonment. Defendant's sentence is to be served consecutively to sentences imposed upon defendant as the result of six robbery convictions. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that he is entitled to resentencing because the trial court failed to recognize the discretion afforded it by MCL 768.7b(2); MSA 28.1030(2)(b) to require the solicitation of murder sentence to be served concurrently with the robbery sentences. Defendant's claimed error fails for a lack of record support. The trial court indicated on the record that it was aware of the discretion afforded it by the statute.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Martin M. Doctoroff

/s/ Donald A. Teeple

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