

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM ASHLEY,

Defendant-Appellant.

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UNPUBLISHED

July 29, 1997

No. 192061

Recorder's Court

LC No. 95-005825

Before: Jansen, P.J., and Wahls and P.R. Joslyn\*, JJ.

MEMORANDUM.

Defendant was convicted of operating a motor vehicle while under the influence of intoxicating liquor, third offense, MCL 257.625(7); MSA 9.2325(7), and sentenced to two to five years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

As a result of defendant's arrest on November 24, 1994, he was charged with OUIL 3<sup>rd</sup> and operating a motor vehicle on a revoked or suspended operator's license. Defendant subsequently pleaded guilty to driving without a valid operator's license in exchange for the dismissal of the charge of operating a motor vehicle on a suspended or revoked license. Thereafter, defendant was convicted of OUIL 3<sup>rd</sup>. He then moved to vacate his OUIL 3<sup>rd</sup> conviction on the ground that his prior plea-based conviction for driving a motor vehicle without a valid operator's license barred his prosecution on the OUIL 3<sup>rd</sup> charge. The trial court denied defendant's motion to vacate his OUIL 3<sup>rd</sup> conviction, finding that the OUIL 3<sup>rd</sup> conviction was not barred by double jeopardy principles. We agree.

Where a defendant precludes a single trial by pleading guilty to one of several pending charges arising out of the same factual basis with knowledge that the prosecutor intends to proceed on the remaining charges, the double jeopardy principles do not bar subsequent trial on the remaining charges. *People v Webb*, 128 Mich App 721, 728 (1983). Here, defendant pleaded guilty to driving without a valid operator's license, knowing that the OUIL charge was still pending. Under these circumstances, defendant's subsequent OUIL 3<sup>rd</sup> conviction does not offend double jeopardy principles.

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

Affirmed.

/s/ Kathleen Jansen

/s/ Myron H. Wahls

/s/ Patrick R. Joslyn