

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWAYNE CLAYTON RODGERS,

Defendant-Appellant.

UNPUBLISHED

September 26, 1997

No. 198581

Recorder's Court

LC No. 94-007363

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant pleaded guilty to second-degree murder, MCL 750.317; MSA 28.549, and was sentenced to a term of imprisonment of seven to twenty years. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with first-degree murder. Defendant and the prosecutor agreed that defendant would plead guilty to second-degree murder in exchange for the dismissal of the first-degree murder charge and a sentence of five to twenty years imprisonment. After this agreement was explained to the trial court, the court accepted defendant's guilty plea but informed defendant that he would be allowed to withdraw his guilty plea if the court chose not to honor the sentence agreement. Thereafter, the court informed defendant at sentencing that it would not honor the sentence agreement. The court then offered defendant the opportunity to withdraw his plea. The court informed defendant that if he reaffirmed his plea, the court would impose a seven to twenty-year sentence. Defendant reaffirmed his plea, after a three-hour adjournment.

Defendant argues that the trial court erroneously refused to honor the initial sentence agreement after accepting defendant's guilty plea. We disagree. Defendant's argument was expressly rejected in *People v Baker*, 215 Mich App 606, 608-611; 547 NW2d 62 (1996). See also MCR 2.302(C).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski