

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEENAN DEMOND WICKS,

Defendant-Appellant.

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UNPUBLISHED

October 3, 1997

No. 196659

Muskegon Circuit Court

LC No. 94-037569 FH

Before: O'Connell, P.J., and MacKenzie and Gage, JJ.

PER CURIAM.

Defendant was found to have violated the terms of his probations, and was sentenced to three to five years' imprisonment for the underlying offense of carrying a concealed weapon. MCL 750.227; MSA 28.424. He now appeals as of right pursuant to MCR 6.445(H), and we affirm.

Defendant raises three issues on appeal: first, he contends that the trial court in the original prosecution erred in failing to suppress certain evidence; second, he argues that the trial court in the original prosecution erred in refusing to allow him to withdraw his plea of guilty; finally, he submits that he may not legitimately be found to have violated the terms of his probation where the underlying conviction is invalid. Obviously, all defendant's allegations of error pertain to the validity of his conviction of carrying a concealed weapon.

A defendant may not attack collaterally his conviction for the original offense underlying his probation revocation in an appeal of the probation revocation itself. As explained in *People v Pickett*, 391 Mich 305, 312-313; 215 NW2d 695 (1974), an order revoking a criminal defendant's conviction is a final order and is properly subject to an appeal as of right. However, such an appeal as of right must necessarily be limited to those matters relating to the probation violation and hearing concerning the violation. *Id.*, p 316. Because allegations of error pertaining to the underlying conviction could have been raised in an appeal as of right of that conviction, to allow a defendant to raise these same issues in an appeal as of right of his probation revocation would be to grant him two rights of appeal to the same final determination. *Id.*

Here, the first two issues raised by defendant should have been brought, if at all, in his appeal as of right of his conviction of carrying a concealed weapon. With respect to defendant's third contention – that a probation revocation may not be predicated on an invalid conviction – we would respond that defendant's conviction of carrying a concealed weapon remains a valid conviction until it is overturned, something that may not be done in the present appeal.

Affirmed.

/s/ Peter D. O'Connell  
/s/ Barbara B. MacKenzie  
/s/ Hilda R. Gage