

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM L. GILL,

Defendant-Appellant.

UNPUBLISHED

March 2, 1999

No. 203125

Oakland Circuit Court

LC Nos. 94-135158 FH &
94-136480 FH

Before: Murphy, P.J., and MacKenzie and Talbot, JJ.

PER CURIAM.

In Case No. 94-135158, defendant pleaded guilty to carrying a concealed weapon (CCW), MCL 750.227; MSA 28.424, possession of a firearm by a person convicted of a felony (felon in possession), MCL 750.224f; MSA 28.421(6), and to being an habitual offender, fourth offense, MCL 769.10; MSA 28.1082. In Case No. 94-136480, defendant pleaded guilty to unarmed robbery, MCL 750.530; MSA 28.798, breaking and entering a motor vehicle for the purpose of stealing property over \$5, MCL 750.356a; MSA 28.588(1), and to being an habitual offender, fourth offense. He received concurrent sentences of five to twenty years' imprisonment for unarmed robbery and three to five years for breaking and entering, felon in possession, and CCW, which sentences were vacated and replaced by identical sentences for being an habitual offender. Defendant appeals as of right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not abuse its discretion in denying defendant's motion to withdraw his pleas at the sentencing hearing. *People v Harris*, 224 Mich App 130, 131; 568 NW2d 149 (1997). Defendant's claim that his attorney told him he would only receive a jail or probation sentence of six months or a year was specifically denied by defense counsel, who also had previously denied the existence of any off-the-record inducements for defendant's pleas at the plea hearing. The record contains no support for defendant's assertion that the alleged sentence agreement was memorialized in a plea form he signed; to the contrary, defendant acknowledged his signature on plea forms containing no such agreement. Moreover, defendant's own responses at the plea proceeding indicate he understood that the trial court would consider imposing a minimum sentence within a guidelines range of twenty-four to sixty months.

Although the trial court neglected to advise defendant in accordance with MCR 2.302(B)(4) that the acceptance of his guilty pleas would operate to waive any future claim that the pleas were the result of promises or threats not disclosed at the plea proceeding, this did not result in a violation of defendant's due process rights. When defendant later sought to withdraw his pleas at sentencing, the trial court did not enforce the waiver of MCR 2.302(B)(4) in this case, but rather, the trial court rejected defendant's claim of an undisclosed sentence promise on the merits. The trial court's determination that defendant's pleas were not induced by undisclosed promises also refutes defendant's claim that he was deprived of the effective assistance of counsel due to defense counsel's failure to advise the trial court of such promises or to point out the court's omissions under MCR 6.302.

This case does not involve successive prosecutions in violation of defendant's right to be free from double jeopardy. Nor is defendant's right to be free from double jeopardy violated by his multiple convictions for CCW/felon-in-possession or breaking and entering/unarmed robbery. See, e.g., *People v Mayfield*, 221 Mich App 656, 661-662; 562 NW2d 272 (1997); *People v Murry*, 106 Mich App 257, 260-261; 307 NW2d 464 (1981).

Affirmed.

/s/ William B. Murphy
/s/ Barbara B. MacKenzie
/s/ Michael J. Talbot