

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODNEY EARL WILLIAMSON,

Defendant-Appellant.

UNPUBLISHED

May 4, 1999

No. 205586

Cass Circuit Court

LC Nos. 97-009005 FC

97-009006 FC

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

MEMORANDUM.

In both of these cases, defendant was convicted by his plea of one count of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). He received concurrent sentences of five to fifteen years' imprisonment. The trial court subsequently denied defendant's motion to withdraw his plea in lower court docket no. 97-009006 FC and for resentencing in lower court docket no. 97-009005 FC. Defendant appeals as of right. We affirm.

The trial court did not abuse its discretion when it denied defendant's post-sentencing motion to withdraw his nolo contendere plea in docket no. 97-009006 FC. *People v Eloby (After Remand)*, 215 Mich App 472, 474-475; 547 NW2d 48 (1996). There is no record support for defendant's claim that he was convicted in docket no. 97-009006 FC for the same sexual assault for which he was convicted in docket no. 97-009005 FC. A comparison of the factual bases given in support of each plea indicates that defendant was convicted of two separate sexual assaults on his daughter. Additionally, the testimony of the investigating officer given at the plea-taking proceeding in docket no. 97-009006 FC relating defendant's inculpatory admissions sufficiently established the factual predicate to allow the trial court to accept the plea, there being no record support for defendant's claim that his admissions were involuntarily made. MCL 750.520c; MSA 28.788(3); *People v Hogan*, 225 Mich App 431, 433; 571 NW2d 737 (1997); *People v Kenneth Johnson*, 122 Mich App 26, 28-29; 329 NW2d 520 (1982).

The trial court also correctly denied defendant's motion for resentencing in docket no. 97-009005 FC. There is no record support for defendant's claim that his plea was induced, in part, by a promise that he would receive a sentence of one to five years' imprisonment. Additionally, defendant's

scoring challenges do not state a cognizable claim for appellate relief, particularly where defendant's conviction in docket no. 97-009006 FC was validly secured, and the sentence imposed in docket no. 97-009005 FC was proportional. *People v Mitchell*, 454 Mich 145, 175-177; 560 NW2d 600 (1997); *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Ward*, 206 Mich App 38, 44-45; 520 NW2d 363 (1994).

Affirmed.

/s/ Michael J. Kelly

/s/ Janet T. Neff

/s/ Michael R. Smolenski