

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL BARRY GRZYWINSKI,

Defendant-Appellant.

UNPUBLISHED

January 11, 2000

No. 213324

Macomb Circuit Court

LC No. 97-002591 FH

Before: Saad, P.J., and McDonald and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right from his plea-based conviction of criminal sexual conduct in the second degree (CSC II), MCL 750.520c; MSA 28.788(3). We affirm.

Defendant pleaded nolo contendere to one count of CSC II in return for the dismissal of other charges, an agreement that the sentence would run concurrently with the sentence he was serving, and an agreement by the prosecutor to recommend a three-year sentence cap. Prior to entering the plea, defendant, acting *in propria persona*, filed a motion to dismiss the case on the ground that the prosecutor had not brought him to trial within 180 days. MCL 780.131; MSA 28.969(1); MCR 6.004(D). While the motion was pending, defendant entered the plea. The issue was not preserved by the plea.

Defendant argues that the trial court lost jurisdiction because the prosecutor failed to bring him to trial within 180 days. We disagree and affirm. An unconditional plea of nolo contendere waives review of a claim that the 180-day rule was violated. *People v Irwin*, 192 Mich App 216, 218; 480 NW2d 611 (1991). Furthermore, the unconditional plea waives any claim of ineffective assistance of counsel arising out of the underlying, waived claim. *People v Bordash*, 208 Mich App 1, 3-4; 527 NW2d 17 (1994).

Affirmed.

/s/ Henry William Saad

/s/ Gary R. McDonald

/s/ Hilda R. Gage