

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ABED M. BAIDAS, a/k/a ABED BAIDES,

Defendant-Appellant.

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UNPUBLISHED

June 13, 2000

No. 215444

Oakland Circuit Court

LC No. 96-145176-FH

Before: Hoekstra, P.J., and Holbrook, Jr., and Zahra, JJ.

PER CURIAM.

Defendant claims an appeal from his plea-based convictions of obtaining money by false pretenses, MCL 750.218; MSA 28.415, and habitual offender, third offense, MCL 769.11; MSA 28.1083. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with obtaining money by false pretenses arising out of his receipt of automobile insurance benefits in the amount of \$3337.50 following a reported accident. The evidence produced at the preliminary examination established that while defendant reported the existence of a lien on the vehicle at the time he applied for the insurance, he represented that no lien existed when he collected the insurance proceeds. The insurance company paid the proceeds to defendant, and subsequently paid the lien holder. Defendant was bound over as charged.

In the trial court, proceedings were delayed for more than two years due to substitution of defense counsel on at least two occasions, and to defendant's failure to appear for trial. Ultimately, defendant pleaded guilty to the charge of obtaining money by false pretenses in the instant case, and to an unrelated charge in a separate case, in exchange for dismissal of a third, unrelated charge. The trial court sentenced defendant as an habitual offender to two to twenty years in prison, with credit for 243 days. After the court imposed sentence defendant moved to withdraw his plea, claiming that counsel had told him that he would receive a county jail term and work release as opposed to a prison term. The trial court denied the motion.

Initially, defendant, via counsel and *in propria persona*, argues that the trial court abused its discretion by denying his motion to withdraw his plea for the reason that the plea was not knowingly,

voluntarily, and accurately made. We disagree. A motion to withdraw a plea after sentencing is addressed to the discretion of the trial court. MCR 6.311. The record contains no support for defendant's allegation that he pleaded guilty in reliance on a promise of leniency. Cf. *People v Jackson*, 203 Mich App 607, 612; 513 NW2d 206 (1994). Moreover, defendant's plea was accepted; therefore, his claim that he pleaded guilty in return for a promise of county jail time and work release, which was not placed on the record, was waived. MCR 6.302(B)(4). Finally, we hold that defendant's plea of guilty to the charge of obtaining money by false pretenses was accurate. Defendant's testimony at the plea hearing established that he falsely told the insurance adjuster that no lien existed on his vehicle, that he made the misrepresentation in order to collect full insurance proceeds, and that he in fact collected full proceeds. Defendant's testimony established the elements of the offense of obtaining money by false pretenses. MCL 750.218; MSA 28.415.

Next, defendant, via counsel and *in propria persona*, argues that the trial court abused its discretion by denying his request for substitute counsel and to adjourn trial. We disagree. The decisions to permit substitution of counsel and to adjourn trial are addressed to the discretion of the trial court. *People v Mack*, 190 Mich App 7, 14; 475 NW2d 830 (1991); *People v Sinistaj*, 184 Mich App 191, 201; 457 NW2d 36 (1990). Appointment of substitute counsel is warranted only upon a showing of good cause and if substitution will not unreasonably disrupt the judicial process. *In re Conley*, 216 Mich App 41, 46; 549 NW2d 353 (1996). Approximately ten days prior to the date the case was set to proceed, defendant sought to obtain substitute counsel. In a letter to the court, defendant stated only that he and his counsel had experienced a breakdown in communications. Such an allegation, without more, is insufficient to warrant substitution of counsel. *People v Tucker*, 181 Mich App 246, 255; 448 NW2d 811 (1989), remanded sub nom *People v Musick*, 437 Mich 867; 462 NW2d 586 (1990). Approximately six days before the case was set to proceed, defendant sought to adjourn trial yet again for an unspecified reason. The trial court's denial of defendant's request for another adjournment did not constitute an abuse of discretion and did not result in prejudice to defendant. *People v Snider*, 239 Mich App 393, 421; \_\_\_ NW2d \_\_\_ (2000).

Next, defendant argues, through counsel, that the trial court erred by considering his immigration status and national origin when imposing sentence. *People v Gjidoda*, 140 Mich App 294, 300-301; 364 NW2d 698 (1985). This argument is without merit. Defendant, a native of Jordan, faced deportation proceedings before the Immigration and Naturalization Service. At sentencing, the prosecution noted that the deportation hearing would take place only if the court imposed a prison term. The court then imposed a prison term.

Before being sentenced, defendant had entered a plea of guilty to a felony, and as a third habitual offender faced a maximum term of twenty years in prison. MCL 750.218; MSA 28.415; MCL 769.11(1)(a); MSA 28.1083(1)(a). His assertion that the trial court imposed a prison term in order to affect his immigration status is entirely without support in the record.

Defendant also argues, through counsel, that the trial court erred by ordering him to pay restitution in an amount that included both the sum paid by the insurance company to the lien holder and the salvage value of the vehicle. We disagree. In determining the amount of restitution to be paid, the court shall consider the loss sustained by any victim as a result of the defendant's conduct. MCL

780.767(1); MSA 28.1287(767)(1). A victim is a party who suffers direct physical, emotional, or financial harm as the result of a commission of a crime. MCL 780.766; MSA 28.1287(766). The insurer paid the lien holder, notwithstanding the fact that it had paid defendant full proceeds to which he was not entitled. The insurer suffered financial harm by paying the lien holder on behalf of defendant under circumstances which did not entitle defendant to have his obligation paid by the insurer. The insurer was entitled to reimbursement of the amount paid to the lien holder. MCL 780.766; MSA 28.1287(766).

Finally, defendant, *in propria persona*, argues that insufficient evidence existed to bind him over for trial. This issue was waived by defendant's plea of guilty to obtaining money by false pretenses. *People v New*, 427 Mich 482, 495; 398 NW2d 358 (1986).

Affirmed.

/s/ Joel P. Hoekstra

/s/ Donald E. Holbrook, Jr.

/s/ Brian K. Zahra