

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JACK PHILLIP GARVEY,

Defendant-Appellant.

UNPUBLISHED

December 6, 1996

No. 158435

LC No. 92-007005-FC

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.*

MEMORANDUM.

Defendant pleaded guilty to felony murder, MCL 750.316; MSA 28.548, was sentenced to life imprisonment. He appeals of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant first contends that he was denied the effective assistance of counsel because his attorney allegedly told him that there was no difference between the potential sentences for first- and second-degree murder. Pursuant to this Court's remand order, the trial court held a hearing on this matter and concluded that the advice given did not deny defendant the effective assistance of counsel. Having reviewed the hearing transcript, we hold that the court did not abuse its discretion by denying defendant's motion to withdraw his plea. *People v Effinger*, 212 Mich App 67, 69; 536 NW2d 809 (1995).

Defendant next contends that his plea was involuntary because it was induced by his counsel's alleged advice that no difference existed between sentences for first- and second-degree murder, and because the plea agreement to dismiss lesser charges was illusory in light of his plea to felony murder.

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

However, the plea transcript demonstrates that defendant was clearly informed that his plea would result in a non-parolable life sentence and that he acknowledged that he was getting no bargain from it.

Defendant has not preserved for review his argument that the trial court failed to establish a factual basis for his plea. He failed to raise that claim in his motion for remand in this Court or to argue it at the remand hearing. *People v Kelley*, 181 Mich App 95, 97; 449 NW2d 109 (1989); MCR 6.311(C).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan