

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK LOUIS BOROWIAK,

Defendant-Appellant.

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UNPUBLISHED

December 13, 1996

No. 187293

LC No. 94-68086 FH

Before: Young, P.J., and O'Connell and W.J. Nykamp,\* JJ.

MEMORANDUM.

Defendant appeals by right his jury trial convictions for resisting arrest, MCL 750.479a; MSA 28.747(1), and assault and battery, MCL 750.81; MSA 28.276. He was sentenced to six months in jail and ordered to pay restitution, with the final thirty days to be suspended upon full payment of restitution. We affirm.

Defendant was involved in a physical altercation with Michigan State University Public Safety officers while attending a rock concert at Spartan Stadium on the campus of Michigan State University.

Defendant first contends that the trial court erred when it denied his pretrial motion to introduce as evidence at trial the results of an allegedly exculpatory polygraph examination administered to defendant. We disagree. Our Supreme Court has declared polygraph evidence to be inadmissible at trial, *People v Barbara*, 400 Mich 352, 402-403; 255 NW2d 171 (1977), and both the trial court and this Court are bound by that precedent unless and until our Supreme Court takes action to overturn it. *Boyd v W G Wade Shows*, 443 Mich 515; 523; 505 NW2d 544 (1993).

Defendant next contends that the trial court erred when it denied his motion for new trial, arguing that he was entitled to a new trial because the prosecution introduced false testimony of the arresting officer at the preliminary examination and at trial. We disagree. A review of the record and the arresting officer's testimony from both proceedings reveals that the arresting officer truthfully indicated that defendant's failure to possess and/or produce his concert ticket was proscribed and

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\* Circuit judge, sitting on the Court of Appeals by assignment.

criminalized by applicable Michigan State University ordinances in effect at the time in question. Refusal to produce a ticket is a proxy for lack of possession, since enforcement of a ticket possession requirement logically dictates that an individual produce his ticket upon reasonable request.

Affirmed.

/s/ Robert P. Young  
/s/ Peter D. O'Connell  
/s/ Wesley J. Nykamp