

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL FREDERICK AMMON,

Defendant-Appellant.

UNPUBLISHED

January 28, 1997

No. 185456

Macomb Circuit Court

LC No. 94-001804-FH

Before: Fitzgerald, P.J., and MacKenzie and A.P. Hathaway*, JJ.

PER CURIAM.

Defendant pleaded guilty to larceny by conversion, MCL 750.362; MSA 28.594, and was sentenced to thirty-three months' to five years' imprisonment. He appeals as of right. We affirm.

Defendant claims that his guilty plea was invalid because the plea was not an understanding and voluntary one, and because there was not an adequate factual basis to support the plea. Neither of these arguments has been properly preserved for appellate review since defendant did not move to withdraw his plea in the trial court. MCR 6.311(C); *People v Allen*, 168 Mich App 77, 78; 423 NW2d 918 (1988). See also *People v Hernandez*, 443 Mich 1, 21; 503 NW2d 629 (1993).

Defendant also contends that he should be allowed to withdraw his plea because he did not receive the effective assistance of counsel. Specifically, he contends that he was inadequately represented because four different attorneys represented him during the criminal process. To establish ineffective assistance of counsel, a defendant must show that counsel's performance was below an objective standard of reasonableness under prevailing professional norms and there is a reasonable probability that, but for counsel's error, the result of the proceedings would have been different. *Strickland v Washington*, 466 US 668; 104 S Ct 2052; 80 L Ed 2d 674 (1984); *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994). Here, defendant has not demonstrated how he was prejudiced by the substitutions, and there is nothing in the record to substantiate his claim that counsel

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

failed to inform him of the status of an off-the-record plea bargain arrangement. Instead, defendant's argument amounts to claims that "one can assume" that he received substandard representation, and that he "could not possibly" have been adequately represented. Effective assistance of counsel is presumed, and the defendant bears a heavy burden of proving otherwise. *Id.* Defendant has failed to do so on this record.

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Barbara B. MacKenzie
/s/ Amy Patricia Hathaway