

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEENAN ROBERT MEEKS,

Defendant-Appellant.

UNPUBLISHED

March 7, 1997

No. 190159

Macomb Circuit Court

LC No. 94-00561-FC

Before: Jansen, P.J., and Reilly and W.C. Buhl,* JJ.

PER CURIAM.

Defendant pleaded guilty of armed robbery, MCL 750.529; MSA 28.797, conspiracy to commit armed robbery, MCL 750.157a; MSA 28.354(1), and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to a two-year prison term for the felony firearm, consecutive to two concurrent prison terms of seven to twenty-five years for the conspiracy and armed robbery convictions. After filing a claim of appeal with this Court, defendant filed a motion to withdraw his plea, asserting his innocence and contending that he had pleaded guilty “simply to expedite the process of finalizing” this case and other cases against him. The motion was denied and dismissed by the trial court after no one appeared for the defense at the hearing on the motion. According to defendant, the motion was thereafter heard and denied in August, 1996. Defendant appeals as of right. We affirm.

Defendant first contends that the trial court erred in denying the motion to withdraw. We conclude that defendant has abandoned this issue on appeal by failing to provide this Court with the transcript of the hearing on the motion. *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995). In any event, we find no abuse of discretion present on the record before us. Defendant’s motion to withdraw was not supported by an affidavit or other proof in support of the allegations contained in the motion. Furthermore, defendant failed to assert his innocence before or at the time of sentencing, but rather indicated that he had nothing to say and allowed the court to sentence him in accordance with the sentence agreement. In these circumstances, the court’s denial of the motion to

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

withdraw was not an abuse of discretion. *People v Montrose (Aft Remand)*, 201 Mich App 378, 382; 506 NW2d 565 (1993).

Defendant also contends that his sentences were disproportionate. Defendant has failed to supply this Court with the presentence investigation report as required by MCR 7.212(C), and has thereby waived appellate review of his sentence. *People v Rodriguez*, 212 Mich App 351, 355; 538 NW2d 42 (1995). Furthermore, defendant's sentence was within the recommended range of the sentencing guidelines, and is therefore presumed proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 N2d 789 (1987). Defendant has not advanced any circumstances adequate to overcome the presumption of proportionality.

Although not raised as a separate issue, defendant also asserts that the court improperly considered other offenses that defendant denied committing. Defendant relies on *People v Grimmert*, 388 Mich 590; 202 NW2d 278 (1972). It is unclear from defendant's brief which other offenses defendant contends were improperly considered. With respect to the contention that the court "held the murder second case¹ against him" in determining his sentence, we find nothing improper about the court's consideration of this case in determining defendant's sentence. Before defendant was sentenced in the case at bar, he had previously been convicted and sentenced in the "murder second case." *Grimmett* is therefore inapposite. It is unclear whether defendant is also asserting that the court improperly considered other charges against defendant that were dismissed as part of the plea agreement in this case. The court mentioned that it was "taking into account the plea negotiations in this matter" However, this reference does not suggest that the court "made an independent finding of defendant's guilt" as the court did in *Grimmett*. We find no error.

Affirmed.

/s/ Kathleen Jansen
/s/ Maureen Pulte Reilly
/s/ William C. Buhl

¹ By this phrase, defendant refers to a separate case in which an armed robbery resulted in the death of the victim. Defendant was convicted of conspiracy to commit armed robbery, assault with intent to rob while armed and felony firearm. Defendant's appeal in that case is pending before this Court in Docket No. 187087.