

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN L. WHITE,

Defendant-Appellant.

UNPUBLISHED
October 31, 2000

No. 215409
Wayne Circuit Court
LC No. 98-007199

Before: Griffin, P.J., and Cavanagh and Gage, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction after a bench trial for felonious assault, MCL 750.82; MSA 28.277, and felony-firearm, MCL 750.227b; MSA 28.424(2). Defendant was sentenced as a third offense habitual offender. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that his waiver of a jury trial was defective where the trial court failed to fully explain the differences between a bench trial and a jury trial and thus the plea was not intelligently made. We disagree.

MCR 6.402(B) provides:

Before accepting a waiver, the court must advise the defendant in open court of the constitutional right to trial by jury. The court must also ascertain, by addressing the defendant personally, that the defendant understands the right and that the defendant voluntarily chooses to give up that right and to be tried by the court. A verbatim record must be made of the waiver proceeding.

The trial court's determination that a defendant validly waived his right to a jury trial is reviewed for clear error. *People v Leonard*, 224 Mich App 569, 595; 569 NW2d 663 (1997). The record must show that the defendant understood that he had a right to a jury trial, and voluntarily waived that right. *People v Reddick*, 187 Mich App 547, 550; 468 NW2d 278 (1991).

In *People v Shields*, 200 Mich App 554, 560; 504 NW2d 711 (1993), this Court questioned the defendant in a nearly identical manner as in the instant case. The court informed the defendant he had a constitutional right to a jury trial, and the defendant confirmed that he wanted a trial without a jury. The judge informed the defendant that he would be deciding the facts as well as the law, and defendant signed a waiver form. This Court held that the defendant understood his right to have a jury trial, and that he voluntarily waived that right. *Id.* at 560-561.

Defendant knowingly and voluntarily waived his right to a jury trial. The trial court did not clearly err in proceeding with a bench trial.

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ Hilda R. Gage