

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID PAUL HADER,

Defendant-Appellant.

UNPUBLISHED

May 14, 1996

No. 178138

LC No. 94-000331 FH;

94-000602 FH;

94-001318 FH

Before: Kavanagh, T.G.,* P.J., and R.B. Burns** and G.S. Allen,** JJ.

MEMORANDUM.

In three separate cases, defendant pleaded guilty to attempted felonious assault, MCL 750.82; MSA 28.277 and MCL 750.92; MSA 28.287, receiving stolen property over \$100, MCL 750.535; MSA 28.803, attempted larceny over \$100, MCL 750.356; MSA 28.588 and MCL 750.92; MSA 28.287, and attempted breaking and entering an occupied dwelling with intent to commit larceny, MCL 750.110; MSA 28.305 and MCL 750.92; MSA 28.287. For those respective convictions, he was sentenced to one to two years' imprisonment, two to five years' imprisonment, one-and-a-half to two-and-a-half years' imprisonment, and three to five years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant expressly and unequivocally waived his right to the representation of counsel at his 1990 and 1992 juvenile adjudication proceedings. MCR 5.915(A)(3); *People v Gonzales*, 179 Mich App 477, 480-482; 446 NW2d 296 (1989). Accordingly, the sentencing court properly considered

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

**Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

those prior adjudications when fashioning sentences in these cases. *People v Carpentier*, 446 Mich 19, 27-31; 521 NW2d 195 (1994).

The sentencing court correctly scored Prior Record Variables 3 and 4. *Carpentier, supra; People v Hernandez*, 443 Mich 1, 16; 503 NW2d 629 (1993); *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). However, the court erroneously scored Offense Variable 8, however. *People v Emma Johnson*, 144 Mich App 497, 503; 376 NW2d 122 (1985). Nevertheless, we find the scoring error to have been harmless given that the error only increased the maximum end of the guidelines range by four months and given that defendant's three-year minimum sentence for his attempted breaking and entering conviction falls within the new guidelines' range. See e.g., *People v Johnson*, 202 Mich App 281, 290; 508 NW2d 509 (1993).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.