STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL ALAN AYOTTE,

Defendant-Appellant.

UNPUBLISHED
October 8, 1996

No. 181591
LC Nos. 94-134592-FH;
94-134601-FH;
94-134602-FH;
94-134603-FH;
94-134604-FH;
94-134605-FH

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.*

MEMORANDUM.

Defendant pleaded guilty to six counts each of breaking and entering an unoccupied dwelling, MCL 750.110; MSA 28.305, and habitual offender, fourth offense, MCL 769.12(1)(a); MSA 28.1084(1)(a). He was sentenced to concurrent terms of three to twenty-five years' imprisoment, to be served consecutive to a sentence for which he was on parole at the time he committed the instant offenses. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant first challenges the calculations of three offense variables under the Michigan Sentencing Guidelines. Any score supported by the evidence should be upheld. *People v Garner*, 215 Mich App 218, 219; 544 NW2d 478 (1996). Defendant's score of fifteen points for OV 25 was supported by the evidence that defendant had admitted to the probation officer that he had committed three additional, similar offenses within six months of the instant offenses. Therefore, we will not disturb the scoring of OV 25. Given our affirmance of the scoring of OV 25, we decline to address

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

defendant's challenges to the scoring of OV 9 and OV 17 because, even if those scores were changed, the recommended guidelines' range would remain the same. *People v Jarvi*, 216 Mich App 161, 164; 548 NW2d 676 (1996).

There is no indication on the record that the trial court failed to recognized and exercise its discretion with regard to the habitual offender sentencings. Moreover, in that defendant was sentenced to a maximum term of twenty-five years rather than the permitted maximum of life imprisonment, we find that the trial court exercised its discretion.

Finally, defendant argues that he was denied the effective assistance of counsel because his trial counsel failed to inform him before he tendered his guilty pleas that he would be required to serve out the remaining maximum sentence of the offense for which he was on parole when he committed these offenses before serving the instant sentences. We disagree. First, defendant has failed to demonstrate that his plea was not made voluntarily and understandingly. See *Garner*, *supra* at 221. Additionally, consecutive sentencing has been provided for by MCL 768.7a(2); MSA 28.1030(1)(2), which was in effect when defendant was sentenced, and our Supreme Court has reversed the case upon which defendant's argument is based. Defendant's argument is therefore without merit. Defendant must serve the combined minimum of his sentences and any portion of the earlier sentence the parole board may require him to serve. *Wayne Co Prosecutor v Dep't of Corrections*, 451 Mich 569; 548 NW2d 900 (1996).

Affirmed.

/s/ John H. Gillis
/s/ Glenn S. Allen, Jr.
/s/ Joseph B. Sullivan