

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEREK H. HAMILTON,

Defendant-Appellant.

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UNPUBLISHED  
October 18, 1996

No. 188841  
LC No. 95-138913-FC

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

MEMORANDUM.

Defendant pleaded guilty to two counts each of armed robbery, MCL 750.529; MSA 28.797, and habitual offender, third offense, MCL 769.11; MSA 28.1083. He was sentenced to concurrent terms of ten to twenty years' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant argues that he was improperly assessed ten points under Offense Variable 9 ("OV 9"), indicating that he was the leader in a multiple-offender situation. Michigan Sentencing Guidelines (2d ed), p 100; *People v Johnson*, 202 Mich App 281, 289; 508 NW2d 509 (1993). We disagree. The record reveals that defendant was the one who was armed with the gun, that he went inside the doctor's office alone and that he committed the robbery while co-defendant Adkinson waited in the car. Defendant later disposed of some of the property obtained during the robbery by giving it to a friend. Under these circumstances, we hold there was sufficient record evidence to support the assessment of ten points under OV 9.

Affirmed.

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

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