

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT SEWELL JACKSON, JR.,

Defendant-Appellant.

UNPUBLISHED
December 6, 1996

Nos. 183621; 183624
LC Nos. 94-002704-FH;
95-000003-FH

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

MEMORANDUM.

In Docket No. 183621, defendant pleaded nolo contendere to unarmed robbery, MCL 750.530; MSA 28.798, and was sentenced to six to fifteen years' imprisonment. In Docket No. 183624, defendant pleaded guilty to two counts of uttering and publishing, MCL 750.249; MSA 28.446, and was sentenced to concurrent terms of two to fourteen years' imprisonment. He filed separate appeals as of right which were consolidated for our review. We affirm. These cases have been decided without oral argument pursuant to MCR 7.214(A).

The prosecutor's sentence recommendation in Docket No. 183621 did not violate the terms of the sentencing agreement entered into by the parties. *People v Swirles*, 206 Mich App 416, 418-419; 522 NW2d 665 (1994). The sentence agreement did not include a promise by the prosecutor to make a general recommendation of a sentence not to exceed seventy-two months. Instead, the agreement encompassed merely a promise that the sentencing court would not impose a minimum sentence on the unarmed robbery conviction that would exceed seventy-two months. *Id.*, 418; *People v Shuler*, 188 Mich App 548, 549-550; 470 NW2d 492 (1991).

Although the trial court erred in scoring ten points for Offense Variable 8 of the sentencing guidelines in Docket No. 183624, we can afford defendant no effective relief in light of our affirmance

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

of his longer seventy-two month minimum sentence for the armed robbery conviction, which is to be served concurrently to the lesser sentences for uttering and publishing. *People v Sharp*, 192 Mich App 501, 506; 481 NW2d 773 (1992). We decline to address the proportionality of the uttering and publishing sentences for the same reason.

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan