

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EUGENE A. VILLARREAL,

Defendant-Appellant.

UNPUBLISHED

February 28, 1997

No. 181485

Muskegon Circuit

LC No. 94-0037493-FH

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EUGENE A. VILLARREAL, a/k/a

EUGENE A. VILLAREAL,

Defendant-Appellant.

No. 181568

Muskegon Circuit

LC No. 94-0037492-FH

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Before: D.F. Walsh,\* P.J., and R.P. Griffin\*\* and W.P. Cynar,\* JJ.

MEMORANDUM.

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

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

In Docket No. 181485, defendant pleaded guilty to uttering and publishing, MCL 750.249; MSA 28.446, and was sentenced to 4 1/2 to 14 years' imprisonment. In Docket No. 181568, defendant also pleaded guilty to uttering and publishing and was sentenced to four to fourteen years' imprisonment. Defendant filed separate appeals as of right, which were consolidated for our review. We affirm defendant's conviction and sentence in Docket No. 181485, but remand for resentencing in Docket No. 181568. These cases have been decided without oral argument pursuant to MCR 7.214(A).

The sentencing courts in both of these cases correctly scored Offense Variable 8 of the sentencing guidelines. The scoring assigned the variable was supported by the respective records. *People v Hernandez*, 443 Mich 1, 16; 503 NW2d 629 (1993); *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). Moreover, defendant failed to make effective challenges to the scoring. *People v Walker*, 428 Mich 261, 268; 407 NW2d 367 (1987).

In Docket No. 181568, the sentencing court deprived defendant of his right of allocution by determining before allocution that the court would impose a consecutive sentence. *People v Parks*, 183 Mich App 647, 649; 455 NW2d 368 (1990). Accordingly, we vacate defendant's sentence and remand for resentencing in that case only.

Defendant's remaining issues are moot in light of our remand.

Defendant's convictions in both cases and sentence in Docket No. 181485 are affirmed, but the sentence in Docket No. 181568 is vacated and the matter is remanded for resentencing. We do not retain jurisdiction.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar