

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES RICHARD FISK, JR.,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 188094

Cheboygan Circuit Court

LC No. 94-001157-FH

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

MEMORANDUM.

Defendant pleaded guilty to larceny of property over \$100, MCL 750.356; MSA 28.588, and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to forty to ninety months' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

When a prosecutor agrees to make a general recommendation pursuant to a plea agreement, the prosecutor breaches the agreement by making a recommendation for a specific number of years. *People v Nixten*, 183 Mich App 95; 454 NW2d 160 (1990). The breach in the instant case does not require resentencing. By agreeing to the four-year minimum sentence, defendant has waived his objection to the prosecutor's noncompliance with the plea agreement. *People v Shuler*, 188 Mich App 548, 552; 470 NW2d 492 (1991).

Affirmed.

/s/ Daniel F. Walsh

*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.

/s/ Robert P. Griffin
/s/ Walter P. Cynar