

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALICE GRIGAR,

Defendant-Appellant.

UNPUBLISHED

May 9, 1997

No. 191958

Genesee Circuit Court

LC No. 95-052651-FH

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

MEMORANDUM.

Defendant pleaded guilty to embezzlement, MCL 750.175; MSA 28.372, and was sentenced to three to ten years' imprisonment. She appeals as of right. We remand. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant argues that the court failed to articulate reasons for departing from the sentencing guidelines. We agree. When a trial court exceeds the guidelines' range, it must articulate both on the record and on the SIR factors not included within the guidelines' range or factors not accounted for adequately by the guidelines. *People v Barclay*, 208 Mich App 670, 677; 528 NW2d 842 (1995). In the present case, the court departed from the guidelines' range of one to two years and simply stated on the record and the SIR that the guidelines were not severe enough. This is not sufficient to comply with the articulation requirement. Accordingly, remand is necessary in order for the court to articulate its reasons for departure. *People v Miles*, 156 Mich App 431, 436-437; 402 NW2d 34 (1986); *People v Adams*, 195 Mich App 267, 281; 489 NW2d 192 (1992), modified 441 Mich 916; 497 NW2d 182 (1993). As a result of our disposition of this issue, we decline to address defendant's remaining issue that her sentence is disproportionate. However, we shall retain jurisdiction to review that challenge after the trial court has had the opportunity to articulate specific reasons for departing from the sentencing guidelines.

*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.

Remanded for articulation of the reasons for defendant's sentence. Jurisdiction is retained.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar