

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROSCELLA LAANDRE ELDRIDGE,

Defendant-Appellant.

UNPUBLISHED

April 12, 1996

No.181747

LC No.94-000722

Before: Doctoroff, C.J., and McDonald and J.B.Sullivan,* J.J.

MEMORANDUM.

Defendant pleaded nolo contendere to assault with intent to commit bodily harm less than murder, MCL 750.84; MSA 28.279. He was sentenced to three years and four months to ten years' imprisonment. He filed this appeal as of right. We affirm.

Defendant's only claim on appeal is that he was denied meaningful allocution because the sentencing judge predetermined his sentence before defendant allocuted. MCR 6.425(D)(2)(c) provides that, before imposing sentence, a court must give the defendant, the defendant's attorney, the prosecutor and the victim an opportunity to advise the court of any circumstances they believe the court should consider when imposing sentence. Our Supreme Court has stated that strict compliance with the rule is required, and that ordinarily the inquiry should come immediately before the sentence is pronounced and after the trial court has made such remarks as it deems appropriate concerning the offense involved, the presentence report, the defendant's personal history, the needs of the community and any another subject. *People v Berry*, 409 Mich 774, 781; 298 NW2d 434 (1980). See also, *People v Ackels*, 190 Mich App 30, 34; 475 NW2d 413 (1991).

In this case, defense counsel allocuted on behalf of defendant, the prosecutor then was given the opportunity to allocute, and then defendant's sister was permitted to allocute on behalf of her brother. The trial court commented on defendant's drug problem and the crime of which he was

*Retired Court of Appeals Judge, sitting on the Court of Appeals by assignment pursuant to Administrative Rule 1995-6.

convicted, and added that it would incarcerate defendant and must incarcerate defendant. At that point, defendant addressed the court after which the court imposed sentence. We agree with plaintiff that the record neither explicitly nor implicitly supports an attempt by the trial court to abrogate defendant's right to allocution.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Gary R. McDonald

/s/ Joseph B. Sullivan