

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBYN Y. GAITHER,

Defendant-Appellant.

UNPUBLISHED

January 31, 1997

No. 188027

Oakland Circuit Court

LC No. 94-136172-FH

Before: Gribbs, P.J., and Holbrook, Jr. and J. L. Martlew,* JJ.

MEMORANDUM.

Defendant pled guilty to retail fraud, first-degree, MCL 750.356c; MSA 28.588(3), and habitual offender-fourth, MCL 769.12; MSA 29.1084. Following defendant's successful motion for resentencing, she was sentenced to a term of one to fifteen years. We affirm.

Defendant raises several claims that this matter must be remanded because the resentencing order noted that her sentence was consecutive, causing an unfair result under *People v Young*, 206 Mich App 144; 521 NW2d 340 (1994). These issues are rendered moot by our Supreme Court's reversal of *Young*, 451 Mich 569; 548 NW2d 900 (1996).

Defendant also argues that resentencing is required because she was denied her right to allocation by the trial court's interruptions. We find this issue meritless. Indeed, after defense council interrupted defendant at one point, the record shows that the trial court returned its attention to defendant and asked if she had anything further to add. Several of defendant's statements were indistinct and not comprehended by the court reporter, and the trial court made several encouraging and affirmative comments, such as "okay", and "all right" as defendant spoke. Defendant was given a reasonable opportunity to address the trial court.

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ Roman S. Gibbs
/s/ Donald E. Holbrook, Jr.
/s/ Jeffrey L. Martlew