

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JULIUS A. CARSON,

Defendant-Appellant.

UNPUBLISHED

February 28, 1997

No. 187473

Oakland Circuit Court

LC No. 94-135368 FH

Before: MacKenzie, P.J., and Holbrook, Jr., and T. P. Pickard*, JJ.

MEMORANDUM.

Defendant pleaded guilty to uttering and publishing, MCL 750.249; MSA 24.446, and possession of a controlled substance less than twenty-five grams, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v). The trial court, having determined that defendant was a fourth-felony offender, MCL 769.13; MSA 28.1085, sentenced defendant to two to twenty years' imprisonment for the uttering and publishing conviction and one to fifteen years' imprisonment for the controlled substance conviction. Defendant appeals as of right. We affirm.

Defendant claims on appeal that his "pleas" to being an habitual offender were not knowingly and voluntarily given and therefore must be set aside. The claim is without merit. Effective May 1, 1994, defendants no longer go to trial or plead guilty to habitual offender offenses. MCL 769.13; MSA 28.1085; *People v Zinn*, 217 Mich App 340, 345; 551 NW2d 704 (1996). Instead, habitual offender status is treated strictly as a sentence enhancement mechanism. *Id.*

In this case, defendant committed the substantive offenses on October 3, 1994, after the amendment to MCL 769.13; MSA 28.1085 took effect. The prosecution filed a notice of intent to seek an enhanced sentence as now required by MCL 769.13(1) and (2); MSA 28.1085(1) and (2). Further, the existence of defendant's prior convictions was determined at sentencing on the substantive offenses as was required by MCL 769.13(5); MSA 28.1085(5). The procedures for enhancing defendant's sentences under the amended MCL 769.13; MSA 28.1085 were therefore followed. Because defendant was not entitled to enter a plea to being an habitual offender, *Zinn, supra*, -- and in

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

fact was not “convicted” of being an habitual offender – there was no error at defendant’s plea-taking or sentencing.

Affirmed.

/s/ Barbara B. MacKenzie
/s/ Donald E. Holbrook, Jr.
/s/ Timothy P. Pickard