

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL E. BLAIM,

Defendant-Appellant.

UNPUBLISHED

May 24, 2002

No. 230900

Wayne Circuit Court

LC No. 00-006176

Before: Murphy, P.J., and Jansen and Kelly, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of felonious assault, MCL 750.82, and was sentenced to a prison term of two to four years. Defendant appeals as of right. We affirm.

I

Defendant first challenges his sentencing for his guilty plea to OUIL, third offense. Although the sentencing court sentenced defendant for his felonious assault conviction, lower court docket number 00-006176, at the same time that it sentenced defendant on his plea of guilty to OUIL, third offense, lower court docket number 00-00853, we lack the jurisdiction to review defendant's sentence concerning his OUIL offense, because that case is not before us. See MCR 7.203(A) and (B). Accordingly, we lack the jurisdiction to review this issue.

II

Defendant next challenges the trial court's sentence for his felonious assault conviction. In particular, he argues that the trial court abused its discretion by imposing a sentence that was not proportional to the offense and the offender and that shocks the judicial conscience. However, we find the issue to be moot.

The Supreme Court's sentencing guidelines were superseded by guidelines developed by the Sentencing Commission pursuant to MCL 769.31 *et seq.* MCL 769.34(1). The Supreme Court's sentencing guidelines apply to offenses committed before January 1, 1999, MCL 769.34(1), *People v Reynolds*, 240 Mich App 250, 254; 611 NW2d 316 (2000), while the statutory guidelines apply to offenses committed on or after January 1, 1999, MCL 769.34(2); *People v Greaux*, 461 Mich 339, 342 n 5; 604 NW2d 327 (2000). Because defendant committed the instant offense on May 13, 2000, the statutory guidelines apply.

The sentencing information report included in the lower court record indicates that the recommended range in the statutory guidelines is ten to twenty-three months. The trial court sentenced defendant to two to four years' imprisonment. Accordingly, defendant's minimum sentence of two years' imprisonment falls outside the guideline's recommended range. A court may depart from the legislative sentencing guidelines range if it has a substantial and compelling reason to do so, and it states on the record the reasons for departure. MCL 769.34(3); *People v Armstrong*, 247 Mich App 423, 425; 636 NW2d 785 (2001).

Here, although the trial court failed to articulate any reasons for its departure from the legislative guidelines during the sentencing hearing, because defendant completed his two-year minimum sentence on May 13, 2002, we find the issue to be moot. Where a defendant has already served his minimum sentence, we will not review the sentence because it is impossible to fashion a remedy; therefore, the issue is moot. *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994).

III

Defendant also argues that the trial court in this bench trial had a sua sponte duty to consider the defense of intoxication even though defendant failed to raise the defense. Reviewing defendant's argument for plain error that affected his substantial rights, we disagree. *People v Carines*, 460 Mich 750, 763; 597 NW2d 130 (1999).

Defendant fails to cite any authority to support his position. An appellant may not give an issue "cursory treatment" by failing to cite any authority on the issue. *People v Kelly*, 231 Mich App 627, 641; 588 NW2d 480 (1998). Additionally, an appellant may not merely announce his position and leave it to us to discover and rationalize the basis for his claims. *People v Leonard*, 224 Mich App 569, 588; 569 NW2d 663 (1997). Because defendant fails to provide us with any authority to support his position that the trial court in a bench trial has a sua sponte duty to consider defenses a defendant fails to raise himself at trial, and because we will not search for such authority, defendant has failed to establish a plain error that affected his substantial rights. Accordingly, we find no merit to his argument.

Affirmed.

/s/ William B. Murphy

/s/ Kathleen Jansen

/s/ Kirsten Frank Kelly