

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

Plaintiff-Appellee,

v

No. 197889

Recorder's Court

JEMMON W. ROBINSON,

LC No. 96-000496

Defendant-Appellant.

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Before: Gage, P.J., and Murphy and Reilly, JJ.

MEMORANDUM.

In a bench trial, defendant was convicted of assault with intent to rob while armed, MCL 750.89; MSA 28.284, assault with intent to murder, MCL 750.83; MSA 28.278, and felony firearm, MCL 750.227b; MSA 28.424(2). Contemporaneously, defendant pled guilty in another case to armed robbery, MCL 750.529; MSA 28.797, and felony firearm. Defendant had no prior felony convictions. This case is being decided without oral argument pursuant to MCR 7.214(E).

The judgment of sentence reflects a four year determinate sentence for the felony firearm charge in the present case. Defendant contends, and the prosecutor concedes, that this sentence is statutorily unauthorized and therefore erroneous. As defendant did not have a prior conviction of felony firearm before committing his second felony firearm offense, he could be sentenced only to a two year term for felony firearm. *People v Sawyer*, 410 Mich 531; 302 NW2d 534 (1981); *People v Stewart*, 441 Mich 89, 94-95; 490 NW2d 327 (1992). Accordingly, defendant's four year sentence for felony firearm is vacated and the cause is remanded to the Wayne County Circuit Court, Criminal Division, with instructions to enter a corrected judgment of sentence of two years on that charge. Defendant's other sentences are unaffected by this decision.

Vacated in part and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Hilda R. Gage

/s/ William B. Murphy

/s/ Maureen Pulte Reilly

