

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JONELL SEARS,

Defendant-Appellee.

UNPUBLISHED

July 17, 1998

No. 206206

Recorder's Court

LC No. 96-008886

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JONELL SEARS,

Defendant-Appellee.

No. 206208

Recorder's Court

LC No. 96-008887

Before: Murphy, P.J., and Young, Jr. and Michael R. Smith*, JJ.

MEMORANDUM.

Plaintiff appeals by right the trial court's order denying its motion to reinstate charges or to grant a new trial. We reverse. These appeals are being decided without oral argument pursuant to MCR 7.214(E).

In three consolidated cases, defendant was convicted after a bench trial of felonious assault, MCL 750.82; MSA 28.277, felony-firearm, MCL 750.227b; MSA 28.424(2), assault and battery, MCL 750.81; MSA 28.276, and malicious destruction of property over \$100, MCL 750.337; MSA

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

28.609. During sentencing proceedings, the trial court sua sponte announced that it was altering the verdicts. The felonious assault and felony-firearm charges were reduced to reckless discharge of a firearm without malice, MCL 750.235; MSA 28.432, and the assault and battery charge was dismissed. The court denied plaintiff's subsequent motion to reinstate the original verdicts or for a new trial.

Alteration of a guilty verdict is precluded on both double jeopardy principles and public policy grounds. *People v Hutchinson*, 224 Mich App 603, 606; 569 NW2d 858 (1997). A trial court in this respect has no greater prerogative than a jury. *Id.*; *People v Jones*, 203 Mich App 74, 82; 512 NW2d 26 (1993). The public policy rationale behind prohibiting alteration of verdicts is to encourage finality of verdicts and prevent potential abuses. *Id.* Once a verdict has been rendered, the fact that a judgment has yet to be entered does not affect a decision on double jeopardy grounds. *Id.*

The double jeopardy clause permits this Court to reinstate the original verdict, but it does not permit the Court to remand for a new trial. *Jones, supra*, at 83. If the verdict is not supported by the evidence, defendant may move for a new trial after remand. *Id.*

Reversed and remanded for reinstatement of the original verdicts. We do not retain jurisdiction.

/s/ William B. Murphy
/s/ Robert P. Young, Jr.
/s/ Michael R. Smith