

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

LARRY J. HARRIS,

Defendant-Appellee.

UNPUBLISHED

October 2, 1998

No. 205789

Recorder's Court

LC No. 97-000664

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

Plaintiff appeals as of right the revised sentence imposed on defendant's conviction, after a jury trial. We reverse. We decide this appeal without oral argument pursuant to MCR 7.214(E).

A jury convicted defendant of armed robbery, MCL 750.529; MSA 28.797, and felony-firearm, MCL 750.227b; MSA 28.424(2). On July 29, 1997, the trial court signed a judgment of sentence that sentenced defendant to three and one-half to fifteen years' imprisonment on the armed robbery charge, consecutive to a two year term on the felony-firearm charge. On July 30, 1997, on its own motion, the trial court changed defendant's armed robbery sentence to one and one-half to fifteen years' imprisonment.

A court may correct an invalid sentence, but may not modify a valid sentence after it has been imposed, except as provided by law. MCR 6.429(A). An invalid sentence refers to any error or defect in the sentence or sentencing procedure that entitles a defendant to be resentenced or to have the sentence changed. *People v Whalen*, 412 Mich 166, 169-170; 312 NW2d 638 (1981). However, "a trial court is without authority to set aside a valid sentence and impose a new one." *Id.* at 169; accord, *People v Mitchell*, 454 Mich 145, 176; 560 NW2d 600 (1997).

The initial sentence in this case was not invalid. Once a defendant begins serving the original sentence, "even one day of it, the authority over the defendant passes out of the trial court's hands by its own order." *In re Dana Jenkins*, 438 Mich 364, 368-369; 475 NW2d 279 (1991). The trial court

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

exceeded its authority in modifying defendant's valid original sentence. We do not imply however that a sentencing court loses jurisdiction at the time it *pronounces* sentence. See *People v Bingaman*, 144 Mich App 152, 159; 375 NW2d 370 (1984). Rather, we hold that a sentencing court loses jurisdiction when it reduces the sentence to a written, signed judgment of sentence.

We reverse and remand for reinstatement of the original sentence. We do not retain jurisdiction.

/s/ William C. Whitbeck

/s/ Gary R. McDonald

/s/ Timothy G. Hicks