

COURT OF APPEALS OF VIRGINIA

Present: Judges Baker, Annunziata and Overton  
Argued by Teleconference

DEBORAH ARTIS

v. Record No. 2131-96-1

COMMONWEALTH OF VIRGINIA

MEMORANDUM OPINION\* BY  
JUDGE NELSON T. OVERTON  
APRIL 29, 1997

FROM THE CIRCUIT COURT OF THE CITY OF VIRGINIA BEACH  
Edward W. Hanson, Jr., Judge

Wm. Brandon Baade for appellant.

Thomas D. Bagwell, Senior Assistant Attorney  
General (James S. Gilmore, III, Attorney  
General, on brief), for appellee.

Deborah Artis was convicted by a jury of grand larceny. She appeals, contending that she was denied her right of allocution. For the reasons that follow, we affirm her conviction.

The parties are fully conversant with the record in the cause, and because this memorandum opinion carries no precedential value, no recitation of the facts is necessary.

Although the trial transcript confirms that the trial judge never explicitly asked Artis whether she had anything she wished to say before he pronounced judgment, it also reveals that Artis did have an opportunity to speak if she desired. See Stamper v. Commonwealth, 220 Va. 260, 280, 257 S.E.2d 808, 822 (1979).

\*Pursuant to Code § 17-116.010 this opinion is not designated for publication.

Artis, however, did not request to speak, nor did her counsel object to the judge's pronouncement without allocution.

Furthermore, the sentencing order recites the fact that the judge granted Artis her right to allocution. Artis did not object to the order within twenty-one days. "Where a defendant does not object to the accuracy of an order within 21 days after its entry, an appellate court may 'presume that the order, as the final pronouncement on the subject, rather than a transcript that may be flawed by omissions, accurately reflects what transpired.'" Kern v. Commonwealth, 2 Va. App. 84, 88, 341 S.E.2d 397, 400 (1986) (quoting Stamper, 220 Va. at 280-81, 257 S.E.2d at 822).

Accordingly, we affirm the conviction.

Affirmed.