

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TORRES LEON POWELL,

Defendant-Appellant.

---

UNPUBLISHED

May 17, 1996

No. 175783

LC Nos. 93-002488-FC;

Before: Kavanagh, T.G.,\* P.J., and R.B. Burns\*\* and G.S. Allen,\*\* JJ.

MEMORANDUM.

Defendant pleaded nolo contendere of assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279,<sup>1</sup> unlawfully driving away an automobile, MCL 750.413; MSA 28.645, attempted unlawfully driving away an automobile, MCL 750.413; MSA 28.645, MCL 750.92; MSA 28.287, possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and habitual offender, third offense, MCL 769.11; MSA 28.1083. He was sentenced to a single enhanced term of four to twenty years' imprisonment for the habitual offender conviction, plus two years' consecutive imprisonment for the felony-firearm conviction. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not err when sentencing defendant as an habitual offender. Nothing in the lower court record indicates that the trial court was unaware of its discretion to decide the maximum sentence. *People v Beneson*, 192 Mich App 469, 471; 481 NW2d 799 (1992). Cf., *People v Mauch*, 23 Mich App 723, 730-731; 179 NW2d 184 (1970). The trial court's imposition of the statutory maximum sentence does not alone show that the court was unaware of its discretion to

---

\*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

\*\*Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

determine the maximum sentence. *People v Gomer*, 206 Mich App 55, 59; 520 NW2d 360 (1994). See also *People v Farah*, 214 Mich App 156; 542 NW2d 321 (1995), lv pending.

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.

---

<sup>1</sup> Both the original and the amended judgments of sentence in LC 94-002488-FC incorrectly state that defendant was convicted of assault with intent to murder, MCL 750.83. The judgment of sentence should be corrected upon remand of the lower court record to accurately reflect that defendant pleaded nolo contendere to assault with intent to do great bodily harm less than murder, MCL 750.84.