

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK THOMPSON,

Defendant-Appellant.

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UNPUBLISHED

May 17, 1996

No. 187967

LC No. 95-10267 FH

Before: Michael J. Kelly, P.J., and Bandstra and S.B. Miller,\* JJ.

PER CURIAM.

Defendant pleaded guilty on May 31, 1995, in the Saginaw County Circuit Court to the charge of delivery of less than fifty grams of cocaine, MCL 333.7401; MSA 14.15 (7401), and second habitual offender, MCL 769.10; MSA 28.1082, based on defendant's prior felony conviction in 1989. The plea agreement was that the minimum sentence on the two pleas was not to exceed two years.

The prior offense that was the basis for the second habitual offender charge and conviction was the result of defendant's conviction on December 7, 1989 in Saginaw County Circuit Court of breaking and entering an occupied dwelling, MCL 750.100; MSA 28.305. At the hearing on the plea the court called to the attention of defendant that his violation of parole may require the serving of that prior sentence before the sentence to be imposed as a result of this pending plea. The defendant interrupted the court, in the presence of his counsel, to deny that the statute applied to him. MCL 768.7(a)(2)

Court: Are you on probation or parole?

Defendant: Parole.

Court: Do you understand by pleading guilty to this that you may be charged with violating the terms of your parole and would be sentenced for that violation?

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

Defendant: Yes, your Honor.

Court: Are you – I should also explain that if you're a violation of parole, you may have to serve the rest of your sentence because you –

Defendant: No, I don't fall under that, no.

On June 28, 1995, defendant was sentenced to a two-year minimum to a thirty- year maximum on each of the charges, to be served concurrently.

Defendant appeals the sentence as of right arguing that the two-year minimum sentence that must be served consecutively to the parole violation was disproportionate. Defendant acknowledges that the sentence of two years minimum on each of the charges was at the low end of the guidelines of the delivery charge. (The delivery charge developed a guideline range of 24 months to 96 months.)

A review of the record does not convince this Court that the trial court abused its sentencing discretion in the imposition of a two year minimum sentence and that the sentence was proportionate to the offense and the offender. *People v Milbourn* 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Michael J. Kelly  
/s/ Richard A. Bandstra  
/s/ Stephen B. Miller