

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES IVON MOHN,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 168123

LC No. 93-7255-FC

Before: Saad, P.J., and McDonald and M.A. Chrzanowski*, JJ.

MEMORANDUM.

Following a jury trial defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, unlawful driving away of an automobile, MCL 750.413; MSA 28.645, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Thereafter defendant pled guilty to being a second time habitual offender and was sentenced to prison terms of from 4 to 7 ½ 12 to 30 and a consecutive 2 years respectively. Defendant now appeals from his convictions and sentences as of right. We affirm.

Defendant has failed to overcome the strong presumption that he was afforded the effective assistance of counsel, *People v Wilson*, 180 Mich App 12; 446 NW2d 571 (1989); any error in the introduction of the contested testimony would be harmless given the overwhelming evidence presented against defendant, including his own confession, *People v Hubbard*, 209 Mich App 234; 530 NW2d 130 (1995); and defendant was awarded sentencing credit for all days served prior to his sentencing even though some of those days defendant was merely a pre-trial detainee to whom the 180-day rule did not apply. MCR 6.004(D)(b); *People v Holbrook*, 180 Mich App 710; 447 NW2d 796 (1989). Finally, we find defendant's sentence, which falls within the guidelines notwithstanding defendant's habitual offender status, to be proportionate to both the offense and the offender. *People v Milbourn*, 435 Mich 630; 401 NW2d 1 (1990).

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

Affirmed.

/s/ Henry William Saad
/s/ Gary R. McDonald
/s/ Mary A. Chrzanowski