

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL SCOTT MCKIMMY,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 185060

LC No. 94-134209-FC

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

MEMORANDUM.

Defendant pleaded guilty to a charge of open murder and was eventually found by the trial court to have committed second-degree murder, MCL 750.317; MSA 28.549. He was sentenced to twenty to sixty years' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not err in scoring twenty-five points for Offense Variable 3 because there is evidence in the record to support the score. *People v Hernandez*, 443 Mich 1, 16; 503 NW2d 629 (1993). Further, defendant's sentence is within the recommended range of the sentencing guidelines and does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Dukes*, 189 Mich App 262, 266; 471 NW2d 651 (1991).

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

**Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

/s/ Glenn S. Allen, Jr.