

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BERNARD BURNS, SR.,

Defendant-Appellant.

UNPUBLISHED

June 18, 1996

No. 178733

LC No. 94-595-FMC

Before: McDonald, P.J., and Markman and C. W. Johnson*, JJ.

MEMORANDUM.

Following a jury trial defendant was convicted of armed robbery, MCL 750.529; MSA 28.797. Thereafter defendant plead guilty to being a second habitual offender, MCL 769.12; MSA 28.1084 and was sentenced to twenty-two to forty years' imprisonment. Defendant now appeals as of right claiming there was insufficient evidence presented to support his conviction; that the trial court erred in failing to appoint an independent expert; and that his sentence is excessive. We affirm.

The prosecution presented sufficient evidence to enable a trier of fact to conclude the elements of the crime were proven beyond a reasonable doubt, *People v Herbert*, 444 Mich 466; 511 NW2d 654 (1993); the court did not abuse its discretion in denying defendant's motion for funds to hire an expert witness because defendant failed to demonstrate the expert testimony would likely benefit his defense, *People v Jacobsen*, 448 Mich 639; 532 NW2d 838 (1995); and the sentence, which falls within the sentencing agreement and within the guidelines for the underlying offense, is proportionate to both the offense and the offender. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Gary R. McDonald
/s/ Stephen J. Markman
/s/ Charles W. Johnson

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