

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICARDO DEON STAMPS,

Defendant-Appellant.

UNPUBLISHED

June 21, 1996

No. 182074

LC No. 94-003541

Before: Cavanagh, P. J. and Hood and J. J. McDonald*, JJ.

MEMORANDUM.

Defendant pleaded guilty to armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2) in return for dismissal of an additional count of armed robbery.. He was sentenced to consecutive terms of two years for the felony firearm conviction and twenty to thirty years for the armed robbery conviction; both to be served concurrently with the sentences imposed in Lower Court No. 94-003542 (COA No 182075), and consecutively to the sentence previously imposed in Lower Court No. 93-012363. Defendant appeals as of right. We affirm.

Defendant argues that, regardless of whether the sentence imposed falls within the guidelines' range, it is disproportionate to the offense and the offender. We disagree.

Appellate review of sentencing decisions is limited to determining whether an abuse of discretion has occurred. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990). A sentencing court has abused its discretion when a sentence is not proportionate to the seriousness of the circumstances surrounding the offense and the offender. *Id.* A sentence within the minimum recommended guidelines range is presumptively proportionate. *People v Wilson*, 196 Mich App 604, 610; 493 NW2d 471 (1992). This presumption of proportionality may be overcome upon a showing of "unusual circumstances." *Milbourn, supra* at 661.

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

Here, the guidelines recommended a minimum sentence of 96 to 240 months; therefore, defendant's sentence of twenty to thirty years is presumptively proportionate. A review of the record indicates that defendant failed to present any unusual circumstances to overcome this presumption. The offense involved excessive brutality of an elderly and helpless victim. In addition, the dismissed count also involved violence. See *People v Duprey*, 186 Mich App 313; 463 NW2d 240 (1990). Under the circumstances, the sentence was proportionate. Accordingly, we find no abuse of discretion.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Harold Hood

/s/ John J. McDonald