

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND WHATLEY,

Defendant-Appellant.

UNPUBLISHED

August 2, 1996

No. 177933

LC No. 93-009066

Before: Neff, P.J., and Jansen and G. C. Steeh, III,* JJ.

PER CURIAM.

Defendant was convicted in a waiver trial of one count of armed robbery, MCL 750.529; MSA 28.797, and was sentenced to 96 to 240 months in prison. Defendant appeals his conviction and sentence as of right and we affirm.

I

Defendant first argues that insufficient evidence existed to support his conviction.¹ We disagree.

When reviewing a sufficiency of the evidence claim, we examine the evidence in a light most favorable to the prosecution and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. People v Wolfe, 440 Mich 508, 515; 489 NW2d 748, amended 441 Mich 1201 (1992). In a bench trial, we afford deference to the trial court's determinations, acting as a trier of fact, of issues such as credibility. People v Daniels, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Here, defendant claims that his identity as the robber was not proven by sufficient evidence. The victim, however, identified defendant at a lineup, and at trial. The trial court, furthermore, found her testimony to be credible. Accordingly, sufficient evidence of defendant's identity existed.

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

II

Defendant's remaining challenges relate to his sentence.

A

Defendant first argues that the trial court erred in scoring Offense Variable two at twenty-five points, indicating that the victim suffered bodily injury and/or was subjected to terrorism. We disagree.

The facts that defendant bruised the victim with the end of his pistol, and the fact that defendant put the pistol to her head, having said he would kill her, support the trial court's scoring of OV2. See *People v Johnson*, 202 Mich App 281, 288-289; 508 NW2d 509 (1993).

B

Finally, defendant asserts that his sentence, at the extreme low end of the guidelines' recommendation of 96 to 240 months, violates the principle of proportionality. We find no error in defendant's sentence.

Because defendant's sentence is within the guidelines range, it is presumptively valid. *People v Albert*, 207 Mich App 73, 75; 523 NW2d 825 (1994). After a careful review of the sentencing transcript and all of the facts considered by the trial court, we conclude that defendant has failed to overcome this presumption.

Defendant's conviction and sentence are affirmed.

/s/ Janet T. Neff

/s/ Kathleen Jansen

/s/ George C. Steeh, III

¹ We find defendant's claim that the trial court's verdict was against the great weight of the evidence waived because defendant failed to raise that issue below. See *People v Patterson*, 428 Mich 502, 514-515; 410 NW2d 733 (1987).