

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LAVALLE LEE LEGETTE,

Defendant-Appellant.

---

UNPUBLISHED

August 13, 1996

No. 186960

LC No. 95-003529 FC;

95-003537 FH

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

MEMORANDUM.

Defendant pleaded nolo contendere to armed robbery, MCL 750.529; MSA 28.797, and guilty to attempted third-degree criminal sexual conduct, MCL 750.92; MSA 28.287 and MCL 750.520d; MSA 28.788(4). For those respective convictions, he was sentenced to seven to twenty years' imprisonment and three to five years' imprisonment. He appeals as of right. We affirm defendant's convictions but remand for resentencing on the armed robbery conviction only. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant's three-year minimum sentence on his attempted CSC III conviction does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). However, we believe that his seven-year minimum sentence on his armed robbery conviction does violate the principle of proportionality. *Id.* Accordingly, we vacate that sentence and remand for resentencing. Under the circumstances, we believe sentencing should be conducted by a different judge. *People v Evans*, 156 Mich App 68, 72; 401 NW2d 312 (1986).

---

\*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.

Remanded for resentencing on the armed robbery conviction only. We do not retain jurisdiction.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.