

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRICE R. BAKER,
a/k/a DARRICO BAKER,

Defendant-Appellant.

UNPUBLISHED

September 20, 1996

No. 173615

LC No. 93007685

Before: Gribbs, P.J., and Marilyn Kelly and White, JJ.

PER CURIAM.

Defendant appeals as of right following his convictions for assault with intent to commit armed robbery, armed robbery and possession of a firearm during the commission of a felony. MCL 750.89; MSA 28.284; MCL 750.529; MSA 28.797, MCL 750.227b; MSA 28.424(2). The trial judge sentenced him to concurrent terms of five to fifteen years' imprisonment for the assault and armed robbery counts and consecutively to a two year term for the felony firearm count.

Defendant argues that there was insufficient evidence to sustain his conviction and that his sentence was disproportionate. We affirm.

Viewed in a light most favorable to the prosecution, the evidence was sufficient to enable a rational trier of fact to find that the essential elements of the crimes were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), modified 441 Mich 1201 (1992); *People v Hunter*, 209 Mich App 280, 282; 530 NW2d 174 (1995). The judge reasonably concluded that defendant was not intoxicated to the point where he was unable to form the specific intent necessary to commit the crimes. *People v Langworthy*, 416 Mich 630, 638; 331 NW2d 171 (1982); *People v King*, 210 Mich App 425, 428; 534 NW2d 534 (1995).

Defendant's minimum concurrent sentences of five years for assault with intent to rob and armed robbery were within the guidelines' recommended range of three to eight years. Therefore, they were presumptively neither excessively severe nor unfairly disparate. *People v Broden*, 428 Mich 343; 408

NW2d 789 (1987); *People v Dukes*, 189 Mich App 262; 471 NW2d 651 (1991). Defendant has not presented unusual circumstances to overcome the presumption. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). His sentences were proportionate to the seriousness of his crimes and his background. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Roman S. Gribbs

/s/ Marilyn Kelly

/s/ Helene N. White