

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY T. J. MITCHELL,

Defendant-Appellant.

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UNPUBLISHED

October 1, 1996

No. 182723

LC No. 94-067464-FC

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.\*

MEMORANDUM.

Defendant pleaded guilty to second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). For those respective convictions, he was sentenced to thirty-five to sixty years' imprisonment and two years' consecutive imprisonment. He appeals of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The probate court did not improperly waive jurisdiction over defendant. During the second-phase waiver hearing, the probate court carefully considered the evidence and made findings with regard to the six factors enumerated in MCR 5.950(B)(2)(c) and MCL 712A.4(4); MSA 27.3178(598.4)(4). This Court will affirm a probate court's order waiving jurisdiction over a juvenile "whenever that court's findings, based on substantial evidence and thorough investigation, show either that the juvenile is not amenable to treatment or that, despite his potential for treatment, the nature of his difficulty is likely to render him dangerous to the public, if released at age nineteen or twenty-one, or to disrupt the rehabilitation of other children." *People v Fowler*, 193 Mich App 358, 363; 483 NW2d 626 (1992). Our review of the court's findings discloses that they satisfy this standard.

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\*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

Next, although defendant's thirty-five year minimum sentence for the murder conviction exceeds the recommended range of the sentencing guidelines, the sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 657; 461 NW2d 1 (1990). The trial court articulated sufficient reasons for exceeding the guidelines' recommendation. *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan