

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ARCELLES LOMOZE MISTER,

Defendant-Appellant.

UNPUBLISHED

October 1, 1996

No. 183218

LC No. 94-069908-FC

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

MEMORANDUM.

Defendant, a juvenile, pleaded guilty to assault with intent to rob while armed, MCL 750.89; MSA 28.284, possession of a short-barreled shotgun, MCL 750.224b; MSA 28.421(2), 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 as an adult to eight to twenty-five years' imprisonment, forty to sixty months' imprisonment, and two years' consecutive imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Contrary to defendant's first claim, there is information in the record regarding the types of treatment available to him and there is record support for the court's finding that he is more likely to be rehabilitated in the adult, rather than the juvenile, system. Second, considering defendant's prior record, his history in the juvenile system, and the seriousness of the offenses, the trial court did not abuse its discretion in sentencing him as an adult. See *People v Lyons (On Remand)*, 203 Mich App 465; 513 NW2d 170 (1994). Defendant's sentence for the assault conviction is within the recommended range of the sentencing guidelines (albeit at the high end) and does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 330, 661; 461 NW2d 1 (1990); *People v Broden*, 418 Mich 343, 354-355; 408 NW2d 789 (1987). Third, defendant was not entitled to confront and cross-examine the author of the social services presentence report. MRE 1101(b)(3); *People v Hana*, 443 Mich 202, 224-226; 504 NW2d 166 (1993). As noted by the court below, the report was comprehensive and

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

provided information regarding sentencing alternatives. Fourth, the trial court did not err in assessing ten points for Offense Variable 6 of the sentencing guidelines. *People v Ratkov (After Remand)*, 201 Mich App 123, 125; 505 NW2d 886 (1993). Resentencing is not required.

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan