

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND EARL KELLER,

Defendant-Appellant.

UNPUBLISHED

October 1, 1996

No. 189558

LC No. 95-082607-FC

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

MEMORANDUM.

Pursuant to a plea agreement, defendant pleaded nolo contendere to safe breaking, MCL 750.531; MSA 28.799, and was sentenced to ten to twenty years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

First, we reject defendant's argument that the Legislature did not intend Proposal B, codified in MCL 791.233b; MSA 28.2303(3), to apply to the offense of safe breaking. Safe breaking is prohibited by MCL 750.531; MSA 28.799, one of the statutes to which the Legislature specifically intended that Proposal B would apply, as indicated by the plain language of MCL 791.233b; MSA 28.2303(3). Although MCL 750.531; MSA 28.799 "encompasses two distinct offenses; the assaultive crime of bank robbery perpetrated by any of the several enumerated means, and the nonassaultive crime of safe breaking," *People v Douglas (On Remand)*, 191 Mich App 660, 663; 478 NW2d 737 (1991), there is no indication that the Legislature intended that Proposal B would not apply to the portion of the statute dealing with the nonassaultive crime of safe breaking. In fact, the specific, clear and unambiguous language of the statute indicates that it does apply to the statutory provision prohibiting safe breaking. Indeed, Proposal B applies to numerous nonassaultive crimes. MCL 791.233b; MSA 28.2303(3). Hence, we conclude that the Legislature intended the meaning plainly expressed in the statute. *Welch Foods v Attorney General*, 213 Mich App 459, 461; 540 NW2d 693 (1995).

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

Next, considering defendant's extensive criminal history and the serious nature of this offense, we conclude that his sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 651; 461 NW2d 1 (1990).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan