

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL S. LEVERETTE,

Defendant-Appellant.

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UNPUBLISHED

October 1, 1996

No. 190940

LC No. 94-009912-FH

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

MEMORANDUM.

Defendant pleaded guilty to violating probation on his underlying convictions of second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to 5 to 22-1/2 years' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The sentencing guidelines do not apply to this case because the offense of second-degree home invasion is not included in the "crime list" section of the guidelines and because defendant was sentenced as an habitual offender. *People v Cervantes*, 448 Mich 620; 532 NW2d 831 (1995); *People v Gatewood (On Remand)*, 216 Mich App 559 ; 550 NW2d 265 (1996); *People v Douglas (On Remand)*, 191 Mich App 660; 478 NW2d 737 (1991). Furthermore, defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan

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