

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VERN DEWAYNE GREENWOOD, JR.,

Defendant-Appellant.

UNPUBLISHED

October 4, 1996

No. 179768

LC No. 94-000729-FC

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

MEMORANDUM.

Defendant pleaded guilty of operating a motor vehicle while under the influence of alcohol thereby causing death, MCL 257.625(4); MSA 9.2325(4), and was sentenced to eight to fifteen years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Defendant did not receive the most severe sentence possible. From the trial court's statements at sentencing, it is clear that the court took into account the mitigating facts of this case, including defendant's background, as well as the aggravating facts. Moreover, this was defendant's second alcohol-related offense.

Defendant next argues that the trial court erred by scoring and considering the sentencing guidelines for manslaughter when there were no guidelines in existence at the time of sentencing for the offense of OUIL causing death. Any claim of error is waived on appeal. Defendant asked the trial court to score and consider the guidelines for manslaughter in making its sentencing decision. A defendant is prohibited from requesting certain action in the trial court and then arguing on appeal that such action was erroneous. *People v Piotrowski*, 211 Mich App 527, 530-531; 536 NW2d 293 (1995).

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

Finally, defendant argues that the offense of OUIL causing death is unconstitutional as a strict liability offense. This issue was decided against defendant's position in *People v Lardie*, 207 Mich App 615, 618-621; 525 NW2d 504 (1994), lv gtd 450 Mich 865 (1995). See also *People v Price*, 214 Mich App 538, 547; 543 NW2d 49 (1995).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan