

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MELVIN CARNELL MILLER,

Defendant-Appellant.

UNPUBLISHED

October 8, 1996

No. 186399

LC No. 94-002561-FH

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

MEMORANDUM.

Defendant pleaded guilty of first-degree home invasion, MCL 750.110a; MSA 28.305(a), and was sentenced as an habitual offender-second, MCL 769.10; MSA 28.1082, to eight to thirty years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant may not challenge the proportionality of his sentence. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). By entering into a plea agreement and receiving a sentence consistent with the agreement, defendant has agreed that the sentence is proportionate to the offense and the offender. *People v Cobbs*, 443 Mich 276, 285 n 11; 494 NW2d 829 (1993); *People v Blount*, 197 Mich App 174, 175-176; 505 NW2d 208 (1992). The issue is not preserved for appellate review regardless of whether the agreement called for a specific term of imprisonment or only a cap for the minimum sentence. See *People v Ward*, 206 Mich App 38, 40, 44; 520 NW2d 363 (1994).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan

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