

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED
October 15, 1996

Plaintiff-Appellee,

v

No. 180450
LC No. 94-005487

DAVID LARUE REESE, JR.,

Defendant-Appellant.

Before: Saad, P.J., and Holbrook and G. S. Buth,* JJ.

MEMORANDUM.

Defendant appeals his conviction of unarmed robbery, MCL 750.530; MSA 28.798. We affirm.

Defendant first argues that there was insufficient evidence to support his conviction. Here, there was evidence that defendant, while unarmed, slapped and choked complainant and then took several bracelets, a wristwatch and complainant's purse from complainant, with the intent to permanently deprive her of them. Viewed in the light most favorable to the prosecution, this was sufficient evidence to support defendant's conviction. *People v Chandler*, 201 Mich App 611, 612; 506 NW2d 882 (1993). Furthermore, this case rested on credibility, and credibility issues are best left to the trier of fact. *People v Wolfe*, 440 Mich 508, 514-515; 489 NW2d 748 (1992); *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Defendant next argues that the sentencing court was unaware that it could depart from the recommended guidelines range; this contention lacks merit because the record shows that the sentencing court was aware of its discretion to depart from the guidelines, but chose not to do so.

Finally, defendant asserts that his sentence of three to fifteen years was disproportionate. However, because the three-year minimum sentence was within the recommended guidelines range of two to six years, it is presumptively proportionate; defendant has failed to present any unusual

* Circuit judge, sitting on the Court of Appeals by assignment.

circumstances which would rebut this presumption. Thus, his sentence is proportionate. *People v Williams (After Remand)*, 198 Mich App 537, 543; 499 NW2d 404 (1993).

Affirmed.

/s/ Henry William Saad

/s/ Donald E. Holbrook, Jr.

/s/ George S. Buth