

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL WILLIAMS,

Defendant-Appellant.

UNPUBLISHED

December 17, 1996

No. 186049

Recorder's Court

LC No. 90-002990

Before: Griffin, P.J., and T.G. Kavanagh* and D.B. Leiber**, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of felony murder, MCL 750.316; MSA 28.548, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to life imprisonment for the felony murder conviction. However, this Court reversed defendant's felony murder conviction and remanded for either a new trial or entry of a second-degree murder conviction, MCL 750.317; MSA 28.549. The prosecutor chose the latter option, and defendant was sentenced on the second-degree murder conviction to twenty-two to forty years' imprisonment, consecutive to a mandatory two year sentence for the felony-firearm conviction. Defendant appeals as of right. We affirm.

On appeal, defendant claims that the trial court failed to adequately articulate its reasons for the sentence. We disagree. To aid appellate review of sentences and to avoid injustice, the trial court must state on the record the criteria considered in imposing sentence. *In re Jenkins*, 438 Mich 364, 375; 475 NW2d 279 (1991); *People v Poppa*, 193 Mich App 184, 188; 483 NW2d 667 (1992). Here, the sentencing court commented that defendant wrongfully took a gun into a dangerous place where he should not have been; that he was prepared to use the gun to take a life; and that he used the gun without hesitation. The sentencing court rejected the validity of defendant's explanations and excuses and declared that defendant must be held accountable for his "gruesome" act. To the extent that these

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

comments are not by themselves sufficient to satisfy the articulation requirement, it is apparent from the sentencing court's comments, the parties' arguments, and the sentencing court's express reference to the sentencing guidelines that defendant's sentence is also based on the sentencing guidelines. This, in itself, is sufficient to satisfy the articulation requirement. See *Jenkins, supra* at 375-376; *People v Lawson*, 195 Mich App 76, 78; 489 NW2d 147 (1992); *People v Benson*, 192 Mich App 469, 471; 481 NW2d 799 (1992). Additionally, we conclude that defendant's sentence for his second-degree murder conviction is proportionate to the offense and the offender. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); see *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987) (sentences within the guidelines' range are presumptively proportionate).

Affirmed.

/s/ Richard Allen Griffin
/s/ Thomas Giles Kavanagh
/s/ Dennis B. Leiber