

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRANCE J. JACKSON,

Defendant-Appellant.

UNPUBLISHED

December 20, 1996

No. 186976

Wayne County

LC No. 94-009309

Before: MacKenzie, P.J., and Wahls and Markey, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, felonious assault, MCL 750.82; MSA 28.277, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to fourteen to thirty years' imprisonment for the robbery conviction, three to ten years for the assault with intent to do great bodily harm conviction, one and one-half to four years for the felonious assault conviction, and the mandatory two-year consecutive term for the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant's convictions arose from an incident that occurred at a gas station on the night of July 30, 1994. Malika Binion was sitting in the driver side of his car and talking on a drive-up pay telephone while his brother, Jammica Williams, sat in the car's passenger side. Defendant approached Binion and pointed a gun at his head, shot Williams as he tried to get out of the car, and then hit Binion's head with the gun. Defendant took Binion's money from his pocket and removed the radio and equalizer from the car while holding the gun to Binion's head. As defendant was about to remove a speaker, an off-duty police officer arrived and ordered defendant to freeze. Defendant and the officer then engaged in a brief shoot-out and chase.

Defendant's sole claim on appeal is that he must be resentenced because his sentence, which was within the guidelines' recommended range for the armed robbery conviction, was tainted by the trial court's assumption that defendant approached Binion's car with the intent to commit the uncharged

crime of carjacking. A fair reading of the sentencing transcript belies the argument. While the court initially characterized this case as involving a potential carjacking, defendant corrected that characterization upon questioning by the court, and the court accepted defendant's explanation. Further, the transcript shows that the court understood that the incident involved the taking of money and stereo equipment at gunpoint, the shooting of Jammica Williams, and the shoot-out with the police officer, and did not involve an attempt to take Binion's car. Under these circumstances, we decline to remand for resentencing.

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Myron H. Wahls

/s/ Jane E. Markey