

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT LARRY CARTER,

Defendant-Appellant.

UNPUBLISHED
February 28, 1997

No. 184569
Berrien Circuit
LC No. 94-002845-FC

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to assault with intent to do great bodily harm less than murder, MCL 750.84; MSA 28.279, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). For those respective convictions, he was sentenced to 6-2/3 to 10 years' imprisonment and two years' consecutive 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 for the assault conviction does not violate the principle of proportionality given his criminal history, his status as a probationer at the time of the instant offense, the seriousness of the circumstances of the offenses, and the benefits bestowed upon him by the terms of the plea agreement. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992).

Defendant's unconditional pleas waive appellate consideration of his due process claim. *People v New*, 427 Mich 482, 495-496; 398 NW2d 358 (1986); *People v Allen*, 192 Mich App 592; 481 NW2d 800 (1992).

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

Affirmed.

/s/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar