

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MATTHEW PAUL LIND,

Defendant-Appellant.

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UNPUBLISHED

March 4, 1997

No. 182007

Macomb Circuit

LC No. 93-002555-HY

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

MEMORANDUM.

Defendant pleaded guilty to violating probation on his underlying convictions of breaking and entering with intent to commit larceny, MCL 750.110; MSA 28.305, and habitual offender, second offense, MCL 769.10; MSA 28.1082. He was sentenced to five to fifteen years' imprisonment, and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The sentencing guidelines should not be considered in determining whether the trial court abused its discretion in sentencing defendant as an habitual offender. The key test is whether the sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Gatewood (After Remand)*, 216 Mich App 559; 550 NW2d 265 (1996). In this case, defendant's enhanced sentence is proportionate considering the circumstances of the underlying offense, the probation violation, and the offender. *People v Milbourn*, 435 Mich 630, 661; 461 NW2d 1 (1990); *People v McCrady*, 213 Mich App 474, 483; 540 NW2d 831 (1995).

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\*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