

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THADDIUS HILL,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 192281

Ingham Circuit Court

LC No. 95-069462-FC

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

MEMORANDUM.

Defendant pleaded guilty of second-degree murder, MCL 750.317; MSA 28.549, conspiracy to commit breaking and entering of an occupied dwelling, MCL 750.110; MSA 28.305 and MCL 750.157a; MSA 28.354(1), and carrying a concealed weapon, MCL 750.227; MSA 28.424. For those respective convictions, he was sentenced to concurrent terms of thirty-five to sixty years' imprisonment, ten to fifteen years' imprisonment, and three to five years' 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 second-degree murder does not violate the principle of proportionality even though the trial court exceeded the recommended range of the sentencing guidelines. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). The trial court exceeded the sentencing guidelines based upon defendant's role in the offense. On the facts of this case, this was a proper reason for the court to exceed the guidelines. *People v Houston*, 448 Mich 312, 320-321; 532 NW2d 508 (1995). Defendant shot and killed the victim after his codefendants left the victim's house. Moreover, defendant had an excessive score under the guidelines for the offense, which justified a

*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.

guidelines' departure. *People v Sarah Stewart*, 442 Mich 937; 505 NW2d 576 (1993). In light of the seriousness of this offense, the trial court imposed a proportionate sentence. *Milbourn, supra*.

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar