

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY FOX,

Defendant-Appellant.

UNPUBLISHED

April 1, 1997

No. 189595

Kent Circuit Court

LC No. 95-000109-FC

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

MEMORANDUM.

Defendant, a juvenile, pleaded guilty to armed robbery, MCL 750.529; MSA 28.797, and was sentenced as an adult to four to fifteen years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court did not clearly err in its findings on the statutory factors for sentencing defendant as an adult. All of the court's findings were supported by the evidence. MCL 769.1(3); MSA 28.1072(3); *People v Launsbury*, 217 Mich App 358, 362; 551 NW2d 460 (1996). Although the witnesses recommended that defendant be sentenced as a juvenile, his criminal background, lack of responsiveness to prior attempts at rehabilitation, and conduct while in juvenile detention favor the trial court's decision. The trial court did not abuse its discretion in determining that the best interests of defendant and society would be served by sentencing him to incarceration in the adult prison system. *Launsbury, supra*.

Defendant's four- to fifteen-year sentence falls within the recommended range of the sentencing guidelines and does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630;

*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.

461 NW2d 1 (1990); *People v Dukes*, 189 Mich App 262; 471 NW2d 651 (1991). Defendant presents his age, educational impairment, and lack of discipline and guidance, both from home and the juvenile system, as unusual circumstances to overcome the presumption of proportionality. In light of defendant's background and his unresponsiveness to previous attempts at rehabilitation, his proposed mitigating circumstances do not overcome the presumption. *People v Rivera*, 216 Mich App 648, 652; 550 NW2d 593 (1996).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar