

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICKY D. JOHNSON,

Defendant-Appellant.

UNPUBLISHED

May 16, 1997

No. 191199

Oakland Circuit Court

LC No. 95-139550 FH

Before: Corrigan, C. J., and Young and M.J. Talbot*, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction of larceny from the person, pursuant to which he was sentenced as a fourth offender to an enhanced term of 3 to 25 years imprisonment. The only issues raised concern the proportionality of defendant's sentence.

With respect to defendant's minimum sentence, although the sentence guidelines are wholly irrelevant to an evaluation of habitual offender sentences, *People v Edgett*, 220 Mich App 686; ___ NW2d ___ (1996), where as here the minimum sentence is within the guideline range as calculated by the trial court for the underlying offense, *a fortiori* defendant has failed to overcome the presumption that a sentence within the guidelines is proportionate to the offense and the offender. *People v Eberhardt*, 205 Mich App 587; 518 NW2d 511 (1994).

As to defendant's maximum sentence, where defendant is a fourth offender, has been convicted of a crime against the person, and was subject to imprisonment for life or any term of years, a 25-year maximum sentence does not represent an abuse of the trial court's sentencing discretion. *People v Houston*, 448 Mich 312; 532 NW2d 508 (1995); *People v Gatewood (On Remand)*, 216 Mich App 559; 550 NW2d 265 (1996).

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ Maura D. Corrigan
/s/ Robert P. Young, Jr.
/s/ Michael J. Talbot