

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARMEL CYNTHIA ALLEN, a/k/a SHARON
GREEN, CYNTHIA REED, CYNTHIA MOSS and
SHIRLEY HALL,

Defendant-Appellant.

UNPUBLISHED

September 23, 1997

No. 198484

Genesee Circuit Court

LC No. 90-043816 FC

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

A Genesee Circuit Court jury found defendant guilty of felony murder, MCL 750.316; MSA 28.548, and assault with intent to murder, MCL 750.83; MSA 28.278. Defendant was sentenced to life imprisonment without parole for her murder conviction and to an enhanced term of imprisonment of thirty to forty-five years' imprisonment for her assault conviction, the latter sentence reflecting defendant's status as a third habitual offender, MCL 769.11; MSA 28.1083. This Court subsequently reversed defendant's murder conviction, but upheld defendant's assault conviction. *People v Allen*, unpublished opinion per curiam of the Court of Appeals, issued 5/24/94 (Docket No. 146476). On remand, defendant pleaded nolo contendere to manslaughter, MCL 750.321; MSA 28.553, and was sentenced to ten to fifteen years' imprisonment. Defendant appeals by right. We affirm.

Defendant challenges the trial court's scoring of Offense Variables 3 and 9. On the basis of our Supreme Court's recent decision in *People v Mitchell*, 454 Mich 145, 176-177; 560 NW2d 600 (1997), we find that defendant is not entitled to any appellate relief. Moreover, even if defendant's scoring challenges were cognizable, defendant would still be entitled to no appellate relief because the sentence imposed was not disproportionate. *Id.*, at 177; *People v Kreger*, 214 Mich App 549; 543 NW2d 55 (1995); *People v Ward*, 206 Mich App 38; 520 NW2d 363 (1994).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski