

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LARRY ALLEN BRINK,

Defendant-Appellant.

UNPUBLISHED

February 17, 1998

No. 197538

Van Buren Circuit Court

LC No. 96-009799 FH

Before: Michael J. Kelly, P.J., and Fitzgerald and M.G. Harrison*, JJ.

MEMORANDUM.

Following his jury conviction of one count of uttering and publishing, MCL 750.249; MSA 28.446, defendant was sentenced to three to fourteen years' imprisonment. His minimum sentence contrasts with a guideline range of zero to twelve months. Defendant contends that his sentence is disproportionate to the offense and the offender. We disagree and affirm.

In departing from the sentence guidelines, the trial court noted:

The defendant has continuously committed crimes for six (6) years, and tends to do so while still on parole or probation. He never successfully completes probation or parole, and commits new crimes shortly after release into the community. His continuous crime spree requires a longer sentence than 1-14 years to protect society.

The presentence report similarly reflects that defendant "has repeatedly shown that he is unsuitable for community supervision", has been a "dismal failure in both probation and parole supervision", continues to be "uncooperative and irresponsible," and is "unmanageable." In light of the crime for which defendant is sentenced and his criminal history, the sentence imposed is neither disproportionate to the offense nor the offender, nor does it represent an abuse of the trial court's sentencing discretion. *People v Houston*, 448 Mich 312; 532 NW2d 508 (1995); *People v*

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

Lemons, 454 Mich 234, 260; 562 NW2d 447 (1997).

Affirmed.

/s/ Michael J. Kelly

/s/ E. Thomas Fitzgerald

/s/ Michael G. Harrison