

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARNELL FRISCO,

Defendant-Appellant.

UNPUBLISHED

March 3, 1998

No. 199986

Recorder's Court

LC No. 96-001229 FY

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

MEMORANDUM.

Following a bench trial, defendant was convicted of two counts of unarmed robbery, MCL 750.530; MSA 28.798, notwithstanding testimony by both victims that the robber, for whom defendant acted as chauffeur, used a shotgun to steal their wallets. Although defendant was on parole for a similar offense when these offenses were perpetrated, he was sentenced to five to fifteen years' imprisonment. Defendant, on this appeal of right, contends that these sentences are disproportionate to the offenses and the offender. We affirm; this appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sentence is near the low end of the guideline range of four to ten years on the minimum. In light of defendant's three prior felonies, parole status, and the leniency already accorded him with respect to the conviction offense, defendant has failed to overcome the presumption that a sentence within the guideline range is proportionate to the offense and the offender. *People v Eberhardt*, 205 Mich App 587; 518 NW2d 511 (1994).

Affirmed.

/s/ Michael J. Kelly

/s/ E. Thomas Fitzgerald

/s/ Michael G. Harrison

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