

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AL-MALIK KAREEM GARRISON, a/k/a AL-
MALIK AL-KAREIM GARRISON, a/k/a AL-
KAREIM GARRISON,

Defendant-Appellant.

UNPUBLISHED

April 24, 1998

No. 199257

Genesee Circuit Court

LC No. 91-045245 FC

Before: Neff, P.J., and White and D. A. Teeple*, JJ.

MEMORANDUM.

Defendant pleaded guilty to second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and was sentenced as an adult to 25 to 37-1/2 years' imprisonment and two years' imprisonment, respectively. This Court remanded this case to the trial court to supplement the record with regard to whether defendant should be sentenced as an adult and to reconsider its sentence in light of any new evidence. *People v Al-Malik Al-Kareim Garrison*, unpublished opinion per curiam of the Court of Appeals, issued June 13, 1995 (Docket No. 151463). On remand, the trial court reaffirmed its decision to sentence defendant as an adult, but resentenced defendant to a term of imprisonment of fifteen to twenty-five years on the murder conviction and to two years on the felony-firearm conviction. Defendant appeals as of right. We affirm.

Defendant argues that the trial court's findings of fact were clearly erroneous. The court's findings of fact were supported by the testimony of probation officer Joan Pigott, probation officer Susan Nitzschke, Family Independence Agency employee Charles Karafa, the contents of the presentence investigation report and the psychological evaluation report of clinical psychologist David Vore, Ph. D. Accordingly, we reject defendant's contention that the court's findings were clearly erroneous. MCR 6.931; *People v Cheeks*, 216 Mich App 470, 474-475, 477-478; 549 NW2d 584 (1996).

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

We likewise reject defendant's contention that the trial court abused its discretion when it sentenced defendant as an adult. The record supports the conclusion that, on balance, the best interests of defendant and the public would be better served by sentencing defendant as an adult. *Cheeks*, *supra* at 478-479.

Finally, 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, 591; 518 NW2d 511 (1994).

Affirmed.

/s/ Janet T. Neff

/s/ Helene N. White

/s/ Donald A. Teeple