

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VICTOR D. BRADLEY,

Defendant-Appellant.

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UNPUBLISHED  
November 2, 1999

No. 209524  
Wayne Circuit Court  
Criminal Division  
LC No. 97-003735

Before: Whitbeck, P.J., and Gribbs and White, JJ.

PER CURIAM.

Defendant Victor D. Bradley appeals as of right from his sentence of ten to twenty years imposed on his conviction of first-degree home invasion, MCL 750.110a(2); MSA 28.305(a)(2), entered after a jury trial. We remand for further proceedings consistent with this opinion.

I. Basic Facts and Procedural History

The evidence showed that Bradley and another person, not involved in this appeal, entered Bradley's neighbor's home by breaking a basement window at 12:30 a.m., when the neighbor was at work. Bradley and the other person ransacked rooms in the house. At that time three children, ages sixteen, nine, and eight, were in the house. The neighbor testified that when she returned home she discovered that several items were missing. The nine-year-old testified that he observed the intruders remove their masks. He identified Bradley as one of the intruders. The jury found Bradley guilty as charged.

The trial court sentenced Bradley on December 18, 1997. The sentencing guidelines in effect at the time did not apply to the offense of first-degree home invasion. The presentence investigation report recommended incarceration, but did not recommend a specific minimum sentence. The prosecution requested that Bradley receive a sentence of ten to twenty years in prison. Defense counsel requested that Bradley be placed in the boot camp program. The trial court indicated that home invasion was one of the most serious crimes that could be committed, and sentenced Bradley to ten to twenty years in prison, with credit for forty-eight days.

## II. Articulation of the Sentencing Criteria and Reasons for the Sentence

### A. Bradley's Argument

Bradley argues that he is entitled to resentencing because the minimum term of ten years is disproportionate to his circumstances and the offense. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Bradley acknowledges that the sentencing guidelines in effect at the time did not apply to the offense for which he was convicted. Nevertheless, Bradley asserts that the trial court did not impose an individualized sentence and that the trial court did not take into account factors such as his lack of a prior record, his status as a high school graduate, his steady work history, and his strong family support.

### B. Standard of Review

A sentence imposed for an offense to which the sentencing guidelines do not apply is reviewed for an abuse of discretion. *People v Compagnari*, 233 Mich App 233, 235-236; 590 NW2d 302 (1998).

### C. The Trial Court's Decision

A sentencing court must articulate on the record the criteria considered and the reasons for the sentence imposed. *People v Sandlin*, 179 Mich App 540, 542; 446 NW2d 301 (1989). The factors considered in imposing sentence should be balanced with the following objectives: (1) reformation of the offender; (2) protection of society; (3) punishment of the offender; and (4) deterrence of others. *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972). The purpose of the articulation requirement is to aid appellate review and to avoid injustice based on sentencing error. *People v Terry*, 224 Mich App 447, 455; 569 NW2d 641 (1997).

In imposing sentence, the trial court stated that Bradley watched complainant's home from his residence across the street, and thus knew that when he entered the home no adult would be present. Apparently, the trial court based this conclusion on complainant's testimony that Bradley's family knew that she worked at night. The trial court stated that Bradley did not know what it was like to be the victim of a home invasion, and observed that home invasion was among the most serious of crimes.<sup>1</sup> The trial court's statements indicate that it intended that the sentence punish Bradley and deter others from committing similar offenses. These are permissible goals of sentencing. *Snow, supra*. However, it is not apparent from the trial court's remarks that the court individualized the sentence. Bradley correctly notes that the trial court made no mention of his personal circumstances, i.e., his lack of any prior record, his educational achievements, his steady work history, etc. Nothing in the record indicates that the trial court balanced these factors with the sentencing goals outlined in *Snow*. Without a more detailed articulation, this Court cannot determine with reasonable certainty whether the trial court abused its discretion by imposing the sentence that it did. *Compagnari, supra*.

Bradley also claims that his minimum term was disproportionate. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). We decline to address this issue at this time due to our disposition of this case.

We remand for further proceedings consistent with this opinion. As the trial judge has retired, the matter shall be reassigned to a different judge. We retain jurisdiction. *People v Pena*, 457 Mich 883; 586 NW2d 925 (1998).

/s/ William C. Whitbeck

/s/ Roman S. Gibbs

/s/ Helene N. White

<sup>1</sup> We note that, although not applicable to the instant case, the new sentencing guidelines recommend a minimum prison term of thirty-six to sixty months for a defendant with no prior record and the highest offense variable score.