

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AUBRIE E. BOWIE, a/k/a AUBRIE ASHLEY, and  
AUBRIE EDWARD BOWIE, III,

Defendant-Appellant.

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UNPUBLISHED

April 15, 2003

No. 238744

Wayne Circuit Court

LC No. 95-003197-01

Before: Jansen, P.J., and Kelly and Fort Hood, JJ.

MEMORANDUM.

Defendant appeals as of right the trial court's decision to resentence him to twenty to thirty years in prison for his conviction of second-degree murder, MCL 750.317. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was initially convicted on September 29, 1995 of felony-murder, MCL 750.316, armed robbery, MCL 750.529, and possession of a firearm during the commission of a felony ("felony-firearm"), MCL 750.227b, after a jury trial.<sup>1</sup> A minor at the time of the offenses, defendant was sentenced as an adult to mandatory life in prison for the murder conviction, with a concurrent sentence of ten to twenty years imprisonment for the robbery conviction and a consecutive two-year sentence for the felony-firearm conviction. This Court affirmed defendant's murder and felony-firearm convictions, but vacated his robbery conviction and sentence in *People v Bowie*, unpublished opinion per curiam of the Court of Appeals, issued May 22, 1998 (Docket No. 195529). Although the Supreme Court denied leave to appeal, defendant's subsequent motion for habeas corpus relief was granted on January 12, 2001. Defendant's felony-murder conviction was vacated, a conviction for second-degree murder was entered, and the trial court was ordered to resentence defendant on that charge. On September 18, 2001, defendant was resentedenced to twenty to thirty years (240 to 360 months) in prison for the second-degree murder conviction, with this sentence to run consecutive to his two-year felony-firearm sentence.

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<sup>1</sup> Defendant was acquitted of a corresponding charge of first-degree premeditated murder.

Defendant now argues that his sentence is disproportionate, even though the minimum sentence fell within the guidelines sentencing range of 120 to 300 months. Defendant's arguments are unpersuasive. Sentences, which fall within the guidelines range, are presumed to be neither excessively severe nor unfairly disparate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Bennett*, 241 Mich App 511, 515-516; 616 NW2d 703 (2000). Nevertheless, a sentence within a guidelines range can conceivably violate proportionality in unusual circumstances. *People v Milbourn*, 435 Mich 630, 661; 461 NW2d 1 (1990). However, defendant has not shown that the trial court erred here or that his situation is so unusual that the presumption of proportionality would not apply. Defendant killed the 70-year-old decedent in the decedent's home by shooting him in the back of the head. According to the presentence information report (PSIR), defendant showed no remorse for the killing and has a previous history of violent juvenile behavior.

Affirmed.

/s/ Kathleen Jansen  
/s/ Kirsten Frank Kelly  
/s/ Karen M. Fort Hood