

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

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AARON DEON KENDRICKS,

Defendant-Appellant.

---

UNPUBLISHED

August 24, 2004

No. 240331

Oakland Circuit Court

LC No. 01-179719-FH

Before: Hoekstra, P.J., and Cooper and Kelly, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of unarmed robbery, MCL 750.530, and was sentenced to four to fifteen years in prison. He appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that his sentence was disproportionate because this crime was his first felony and he maintains that he is mentally ill and mentally retarded. The record supports a conclusion that defendant has a history of psychotic disorders and that he is at least mildly mentally retarded. Defendant acknowledges that his minimum sentence was within the guidelines range of 36 to 71 months, but asserts that it should have been 36 months given these extenuating factors.

Since this crime occurred on May 2, 2001, the legislative sentencing guidelines apply. MCL 769.34(2). MCL 769.34(10), a provision of the legislative sentencing guidelines, provides that if the minimum sentence imposed is within the guidelines range, this Court must affirm and may not remand for resentencing absent an error in the scoring of the sentencing guidelines or absent inaccurate information relied upon in determining the defendant's sentence. Defendant does not argue an error in scoring or that the information was inaccurate.

In *People v Babcock*, 469 Mich 247, 255-256; 666 NW2d 231 (2003), the Supreme Court held:

Before the enactment of these guidelines, the trial court was required to choose a sentence within the statutory minimum and maximum that was “proportionate to the seriousness of the circumstances surrounding the offense and the offender.” [*People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).] Following the enactment of these guidelines, the trial court is required to choose a sentence

within the guidelines range, unless there is a “substantial and compelling” reason for departing from this range. Consequently, . . . the role of the Court of Appeals has also changed from reviewing the trial court’s sentencing decision for “proportionality” to reviewing the trial court’s sentencing decision to determine, first, whether it is within the appropriate guidelines range and, second, if it is not, whether the trial court has articulated a “substantial and compelling” reason for departing from such range.

Based on Babcock and MCL 769.34(10), we conclude that a sentence within the legislative sentencing guidelines range is not subject to review by this Court for proportionality.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jessica R. Cooper

/s/ Kirsten Frank Kelly