

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES EDDIE HALL, JR.,

Defendant-Appellant.

UNPUBLISHED

January 7, 1997

No. 184571

LC No. 94-002912

Before: Bandstra, P.J., and Hoekstra and S.F. Cox,* JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of assault with intent to murder, MCL 750.83; MSA 28.278, preparation with intent to burn real property, MCL 750.77; MSA 28.272, and possession of an explosive or incendiary device with intent to use it against the person or property of others, MCL 750.211a; MSA 28.408(1). Defendant was sentenced to 20 to 40 years' imprisonment for the assault with intent to murder conviction; 1 to 4 years' imprisonment for the preparation to burn conviction; and 2 to 4 years' imprisonment for the possession of an incendiary device conviction. Defendant appeals as of right, and we affirm.

On appeal, defendant's first claim is that he was denied his state and federal constitutional right to an impartial jury because the array of potential jurors failed to provide a panel which was a fair and reasonable cross-section of the community where the crime was committed. In order to preserve a challenge to a jury array, a defendant must register an objection before the jury has been impaneled and sworn. *People v Hubbard, (After Remand)*, 217 Mich App 459, 465; 552 NW2d 593 (1996). Here, defendant failed to raise an objection to his jury array in the trial court. Accordingly, defendant has forfeited appellate consideration of this issue. *People v Dixon*, 217 Mich App 400, 404; 552 NW2d 663 (1996).

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

We also find without merit defendant's contention that his trial counsel's failure to object to the jury array denied him the effective assistance of counsel. The selection of a jury is a matter of trial strategy. See *People v McKee*, 7 Mich App 296, 299; 151 NW2d 869 (1967). Here, defendant has failed to overcome the presumption that, under the circumstances, the actions of his counsel constituted sound trial strategy. *People v LaVearn*, 448 Mich 207, 216; 528 NW2d 721 (1995).

Finally, defendant claims that his minimum sentence of 20 years' imprisonment is excessive and disproportionate. We disagree. Because defendant's sentence is within the sentencing guidelines range, it is presumed to be proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). We have reviewed defendant's arguments and conclude that defendant has failed to articulate any unusual circumstances to overcome the presumption of proportionality. The trial court did not abuse its discretion in imposing the instant sentence *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

Affirmed.

/s/ Richard A. Bandstra
/s/ Joel P. Hoekstra
/s/ Sean F. Cox