

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HERMAN DEE RATCLIFF,

Defendant-Appellant.

UNPUBLISHED

January 24, 1997

No. 184310

Genesee Circuit Court

LC No. 94-050926-FH

Before: Jansen, P.J., and Young and R.I. Cooper,* JJ.

MEMORANDUM.

Defendant pleaded guilty to involuntary manslaughter, MCL 750.321; MSA 28.553, and receiving or concealing stolen property in excess of \$100, MCL 750.535; MSA 28.803. He was thereafter sentenced to concurrent terms of ten to fifteen years and forty months to five years of imprisonment respectively. Defendant appeals as of right and we affirm.

Defendant contends on appeal that his sentence of ten to fifteen years for involuntary manslaughter violates the principle of proportionality. Although the sentencing guidelines range was three to eight years, we do not find defendant's sentence to violate the principle of proportionality. Defendant was seventeen years old at the time of the incident. He was driving a vehicle that he knew was stolen while under the influence of alcohol and marijuana (his blood alcohol level 1/1-2 hours after the incident was .18%). Defendant hit a parked truck, which in turn hit a nine-year old boy, throwing the boy through the air and causing his death. Defendant fled the scene on foot and was later apprehended by a bystander. Further, in exchange for the plea, counts of operating a motor vehicle under the influence of alcohol causing death and failure to stop at the scene of a serious or fatal accident were dismissed. The sole fact that defendant had no prior criminal record, since he was only seventeen years old when he committed these offenses, does not militate toward a more lenient sentence.

Under these circumstances, and where the trial court adequately articulated its reasons for departing from the guidelines range, we cannot conclude that the trial court abused its discretion in

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

sentencing defendant to ten to fifteen years for involuntary manslaughter. *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987); *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990); *People v Duprey*, 186 Mich App 313, 318; 463 NW2d 240 (1990).

Affirmed.

/s/ Kathleen Jansen

/s/ Robert P. Young, Jr.

/s/ Richard I. Cooper