

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JARREAU MUNTU BULLOCK,

Defendant-Appellant.

UNPUBLISHED

March 28, 1997

No. 188765

Macomb Circuit Court

LC No. 95-000134-FC

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Pursuant to a plea agreement, defendant, a juvenile, pleaded guilty to armed robbery, MCL 750.529; MSA 28.797, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). For those respective convictions, he was sentenced as an adult to ten to twenty-five years' imprisonment and two years' consecutive imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant was not sentenced on the basis of inaccurate or insufficient evidence. The evidence was sufficient to support the scoring of Offense Variables 1 and 2. *People v Kreger*, 214 Mich App 549, 552; 543 NW2d 55 (1995); *People v Hoffman*, 205 Mich App 1, 24; 518 NW2d 817 (1994).

The trial court's factual findings in support of its decision to sentence defendant as an adult were not clearly erroneous. Moreover, the court did not fail to consider any of the enumerated factors. MCL 769.1(3); MSA 28.1072(3); MCR 6.931(A) and (E). The court's ultimate decision to sentence defendant as an adult was not an abuse of discretion. *People v Lyons (On Remand)*, 203 Mich App 465, 469-470; 513 NW2d 170 (1994).

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

Defendant has failed to preserve for appellate review his claim that the armed robbery sentence is disproportionate. *People v Sharp*, 192 Mich App 501, 505; 481 NW2d 773 (1992). Nevertheless, the sentence does not violate the principle of proportionality because the trial court allegedly failed to consider that defendant was a juvenile and immature. The purpose of a juvenile sentencing hearing is to determine whether a juvenile shall be given a sentence provided by law for an adult offender. MCL 769.1(3); MSA 28.1072(3). Once the trial court determines the juvenile should be sentenced as an adult, and the court's findings are not clearly erroneous, then a determination as to whether the court abused its discretion in imposing the sentence should be analyzed according to the factors set forth in *People v Coles*, 417 Mich 523, 550; 339 NW2d 440 (1983), and *People v Harvey*; 203 Mich App 445, 448; 513 NW2d 148 (1994). The guidelines should be given the same consideration as they are with any adult offender.

Although trial courts are to consider the effect of the felony-firearm mandatory two-year sentence in determining a proportionate sentence, *People v Jeff Davis*, 196 Mich App 597, 601; 493 NW2d 467 (1992), the courts must also consider the intent of the Legislature in fashioning a separate and additional punishment for a criminal who uses a firearm during the commission of a crime. *People v Abend*, 94 Mich App 13, 14; 286 NW2d 926 (1979). Had the Legislature intended to exempt juvenile defendants who are sentenced as adults pursuant to MCL 769.1(3); MSA 28.1072(3), or accord them special consideration, it would have expressly done so. See *People v Korona*, 119 Mich App 369, 372; 326 NW2d 143 (1982).

The trial court did not abuse its discretion in sentencing defendant. *People v Cervantes*, 448 Mich 620, 626-627; 532 NW2d 831 (1995). Defendant's sentences are proportionate to the seriousness of the circumstances surrounding the offenses and the offender. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990).

Affirmed.

/s/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar