

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD LEE MINCH,

Defendant-Appellant.

UNPUBLISHED

April 4, 1997

No. 191068

Kent Circuit Court

LC Nos. 94-001764-FC;

94-001813-FH

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

MEMORANDUM.

Defendant pleaded nolo contendere in lower court no. 94-001764-FC to extortion, MCL 750.213; MSA 28.410, and habitual offender, second offense, MCL 769.10; MSA 28.1082, for which he was sentenced to eight to thirty years' imprisonment. Defendant also pleaded nolo contendere in lower court no. 94-001813-FH to indecent exposure as a sexually delinquent person, MCL 750.335a; MSA 28.567(1) and MCL 750.10a; MSA 28.200(1), and was sentenced to one year in jail. Defendant appeals as of right, raising one issue concerning the habitual-offender sentence in the extortion case. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

A trial court is presumed to follow the law absent proof to the contrary. *People v Farmer*, 30 Mich App 707; 186 NW2d 779 (1971). Defendant has failed to overcome this presumption. The trial court's comments as a whole, particularly its comments at the time that the sentence was imposed, reveal that it was aware of its discretion in setting the maximum term of defendant's sentence, as an habitual offender, for the extortion conviction. *People v Farah*, 214 Mich App 156; 542 NW2d 321 (1995); *People v Green*, 205 Mich App 342; 517 NW2d 782 (1994); *People v Beneson*, 192 Mich

*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.

App 469; 481 NW2d 799 (1992); *People v Mauch*, 23 Mich App 723; 179 NW2d 184 (1970). Hence, defendant's sentence is valid. *In re Dana Jenkins*, 438 Mich 364, 369 n 3; 475 NW2d 279 (1991).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar