

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

YAPHET KOTO BROWN,

Defendant-Appellant.

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UNPUBLISHED

July 1, 1997

No. 192616

Jackson Circuit Court

LC No. 95-73451-FC

Before: Neff, P.J., and Wahls and Taylor, JJ.

MEMORANDUM.

A jury convicted defendant Yaphet Koto Brown of involuntary manslaughter, MCL 750.321; MSA 28.533. The trial court sentenced him to a term of 84 to 180 months' imprisonment. Defendant appeals as of right. We affirm.

Defendant claims that he was improperly sentenced under the sentencing guidelines when the trial court scored twenty-five points for offense variable 4 (OV4). However, there is no juridical basis for claims of error based on alleged misinterpretation of the guidelines, instructions regarding how the guidelines should be applied, or misapplication of guideline variables. *People v Mitchell*, 454 Mich 145, 176-177; \_\_\_ NW2d \_\_\_ (1997). Application of the guidelines states a cognizable claim on appeal only where (1) a factual predicate is wholly unsupported, (2) a factual predicate is materially false, and (3) the sentence is disproportionate. *Id.*, p 177. Accordingly, *Mitchell* precludes this claim. *Id.*

Next, defendant claims that the trial court erred in precluding statements made by decedent to medical personnel. The admissibility of these statements was addressed by the trial court during a pretrial hearing. Because defendant did not provide this Court with a transcript of that hearing, he has waived this issue. *People v Anderson*, 209 Mich App 527, 535; 531 NW2d 780 (1995). In any case, no manifest injustice has occurred where a detective testified to the same factual information that defendant claims was wrongfully excluded.

Affirmed.

/s/ Janet T. Neff

/s/ Myron H. Wahls  
/s/ Clifford W. Taylor