

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LOUIS WHITE,

Defendant-Appellant.

UNPUBLISHED

August 15, 1997

No. 196732

Recorder's Court

LC No. 95-009878

Before: White, P.J., and Bandstra and Smolenski, JJ.

PER CURIAM.

Defendant was convicted by a jury of voluntary manslaughter, MCL 750.321; MSA 28.553, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). He was sentenced to ninety to 180 months for the voluntary manslaughter conviction and two years' consecutive imprisonment for the felony-firearm conviction. He appeals as of right. We affirm his convictions, but remand.

The sentencing guidelines suggested a minimum sentence of twelve to sixty months. Although the guidelines do not have the force of law, they are "tools to aid the trial court in the exercise of its authority and a framework for the appellate courts' inquiry into the question whether the sentence is disproportionate and, hence, an abuse of the trial court's discretion." *People v Mitchell*, 454 Mich 145, 178; 560 NW2d 600 (1997). Departures from the guidelines are subject to careful review on appeal. *People v Milbourn*, 435 Mich 630, 659-660; 461 NW2d 1 (1990). When a trial court deviates from the guidelines because of special characteristics of the offense or offender, it must specifically explain those characteristics. *People v Fleming*, 428 Mich 408, 426; 410 NW2d 266 (1987).

In this case, the trial court did not articulate any special characteristics that would warrant an upward deviation from the guidelines. Accordingly, we remand for the trial court to explain the sentence departure or resentence within the guidelines. *Id.* Although defendant argues that this matter should be considered by a different trial judge, we find this unnecessary. Defendant has not shown that the trial court cannot set aside its previously expressed views or that it is necessary to reassign this matter in

order to preserve the appearance of justice. *People v Hill*, 221 Mich App 391, 398; 561 NW2d 862 (1997).

Next, defendant argues that the trial court abused its discretion when it gave the jury supplemental written instructions. We disagree. During their deliberations, the jury asked for written instructions about the charged offenses only. Defendant requested that the jury be given the written definition of self-defense as well. The trial court only gave the jury what they had asked for and not the self-defense definition. This was appropriate. *People v Parker*, 133 Mich App 358, 362; 349 NW2d 514 (1984).

Defendant's convictions are affirmed, but we remand for the trial court to explain the sentence departure or to resentence defendant. We do not retain jurisdiction.

/s/ Helene N. White

/s/ Richard A. Bandstra

/s/ Michael R. Smolenski