

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEANDRA KELLY SPEARS,

Defendant-Appellant.

UNPUBLISHED

October 3, 1997

No. 190935

Saginaw Circuit Court

LC No. 89-002092 FH

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

Defendant appeals by right his jury conviction of breaking and entering, following which he was adjudicated a second offender pursuant to a plea bargain whereby a supplemental information charging him as a fourth offender was dismissed. After six years as a fugitive from justice, having absconded on bond during trial, defendant received an enhanced 2 to 15 year sentence.

Defendant contends that the sentence is disproportionate to the offense and the offender. The sentence guidelines for the underlying offense are irrelevant in light of defendant's habitual offender status, *People v Edgett*, 220 Mich App 686; 560 NW2d 360 (1996). However, since defendant's minimum sentence is within the guidelines for the underlying offense, a fortiori, when defendant is the appellant, the sentence is presumed proportionate. *People v Eberhardt*, 205 Mich App 587; 518 NW2d 511 (1994). Defendant's sentence as an habitual offender is reviewed only to determine whether the trial court abused its sentencing discretion. *People v Hansford* (After Remand), 454 Mich 320; 562 NW2d 460 (1997).

While defendant may have led an exemplary life while on fugitive status, the sentencing court took that into full consideration, as reflected in the sentence actually imposed. No abuse of the trial court's sentencing discretion has been established on this record.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad