

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL BENNINS,

Defendant-Appellant.

UNPUBLISHED
October 16, 1998

No. 203803
Recorder's Court
LC No. 96-006258

Before: Whitbeck, P.J., and McDonald and T. G. Hicks*, JJ.

MEMORANDUM.

Defendant was convicted by jury of two counts of assault with intent to commit murder, MCL 750.83; MSA 28.278, and one count of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to concurrent terms of imprisonment of twenty to forty years on the assault convictions and to a consecutive term of imprisonment of two years on the felony-firearm conviction. Defendant appeals as of right. We affirm. We decide this case without oral argument pursuant to MCR 7.214(E).

Defendant's twenty-year minimum sentences fall within the sentencing guidelines recommendation and, therefore, are presumptively proportionate. *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994). Defendant has failed to present sufficient mitigating factors to overcome the presumption of proportionality that attends sentences within the guidelines recommendation. *Id.*

Affirmed.

/s/ William C. Whitbeck
/s/ Gary R. McDonald
/s/ Timothy G. Hicks

* Circuit judge, sitting on the Court of Appeals by assignment.