

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND BERNARD WINSTON,

Defendant-Appellant.

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UNPUBLISHED

February 19, 1999

No. 203702

Recorder's Court

LC No. 94-007809

Before: Gribbs, P.J., and Saad and P. H. Chamberlain,\* JJ.

MEMORANDUM.

Defendant appeals by right his sentences for second-degree murder, MCL 750.317; MSA 28.549, assault with intent to murder, MCL 750.83; MSA 28.278, and two counts of felony-firearm, MCL 750.227b; MSA 28.424(2). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant shot and killed the manager of his apartment complex and shot and seriously wounded a maintenance worker after his car was towed. Defendant pleaded guilty pursuant to an agreement by which a charge of first-degree murder was reduced to second-degree murder.

In addition to the two-year terms for felony-firearm, the court sentenced defendant to concurrent terms of 60 to 120 years for second-degree murder and 45 to 90 years for assault with intent to commit murder. The minimum terms exceeded the guidelines by 35 years and 20 years, respectively. The trial court indicated on the record and in the sentencing information report that it exceeded the guidelines because defendant had no regard for human life, lacked any remorse, was likely to kill again if released, and, according to the psychological report, was malingering with regard to recalling details of the incident.

Defendant argues that his minimum terms of 60 and 45 years are disproportionate because the trial court gave insufficient reasons for exceeding the guidelines to the extent that it did. His perceived lack of remorse was equivalent to a refusal to admit guilt, and thus was not a proper consideration.

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

*People v Yennior*, 399 Mich 892; 282 NW2d 920 (1977). Moreover, the record did not support the conclusion that he would kill again if released.

We affirm. Sentence length is reviewed pursuant to the principle of proportionality. A sentence must be “proportionate to the seriousness of the circumstances surrounding the offense and the offender.” *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). The key test of the proportionality of a sentence is whether it reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). A court may depart from the guidelines if the recommended range inadequately reflects the seriousness of the offense. *People v Witcher*, 192 Mich App 307, 308-309; 480 NW2d 636 (1991). Here, while the court’s departures from the sentencing guidelines were extensive, the sentences were justified by the circumstances of the offense and by defendant’s own circumstances. Defendant’s actions demonstrated a complete disregard for life. He had a prior conviction for manslaughter. A psychological report indicated that defendant was unwilling to take responsibility for his actions. The court did not equate his lack of remorse with a refusal to admit guilt. The sentences are not disproportionate.

Affirmed.

/s/ Roman S. Gibbs  
/s/ Henry William Saad  
/s/ Paul H. Chamberlain