

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KIM J. HUNTER,

Defendant-Appellant.

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UNPUBLISHED

March 19, 1999

No. 199759

Mason Circuit Court

LC No. 96-001391 FH

Before: O'Connell, P.J., and Jansen and Collins, JJ.

MEMORANDUM.

Defendant appeals of right from his sentence of two to twenty-five years for his convictions of prison escape, MCL 750.193; MSA 28.390, and habitual offender, fourth offense, MCL 769.12; MSA 28.1084, entered after a bench trial. We affirm.

Defendant, an inmate in the custody of the Department of Corrections, was placed into an electronic monitoring program which required him to report to his tether site no later than 5:30 p.m. When defendant was late on one occasion, he left the area. He was placed on escape status. Two days later, defendant surrendered to authorities. He was convicted of prison escape and habitual offender, fourth offense, and sentenced to two to twenty-five years in prison, consecutive to the sentence he was serving. MCL 768.7a; MSA 28.1030(1).

Defendant argues that his maximum term of twenty-five years is disproportionate to his circumstances and to those of the offense. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). We disagree and affirm. The sentencing guidelines do not apply to habitual offenders. *People v Williams*, 223 Mich App 409, 412; 566 NW2d 649 (1997). The standard of review for a sentence imposed on an habitual offender is abuse of discretion. If an habitual offender's underlying criminal history demonstrates that he is unable to conform his conduct to the law, a sentence within the statutory limits does not constitute an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320, 323-324, 326; 562 NW2d 460 (1997). Defendant had an extensive prior criminal record, was uncooperative with Department of Corrections authorities while on the tether program, and failed to take advantage of the opportunities for rehabilitation offered to him. The trial court's articulation of reasons for imposing the sentence it did was sufficient. *People v Sandlin*, 179 Mich App 540, 542;

466 NW2d 301 (1989). Because defendant was a fourth habitual offender, the trial court could have imposed a sentence of life or any term of years. MCL 769.12(1)(a); MSA 28.1084(1)(a). Defendant's sentence was within the statutory limits, and did not constitute an abuse of discretion under the circumstances.

Affirmed.

/s/ Peter D. O'Connell

/s/ Kathleen Jansen

/s/ Jeffrey G. Collins