

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEREMY MICHAEL CLIFTON,

Defendant-Appellant.

UNPUBLISHED

May 14, 1999

No. 202440

Berrien Circuit Court

LC No. 96-002559 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his guilty plea based conviction for breaking and entering a building with intent to commit a felony, MCL 750.110; MSA 28.305. We affirm.

On appeal, defendant asserts that his five to ten year sentence is disproportionate where the guidelines range was one to two years. In the absence of factors legitimately considered at sentencing and not adequately considered by the applicable guidelines, a departure from the recommended range indicates a possibility that a sentence may be disproportionate. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). The key test of proportionality is whether the sentence reflects the seriousness of the matter. *People v Lemons*, 454 Mich 234, 260; 562 NW2d 447 (1997).

Here, the sentence reflects the trial court's concern for the seriousness of the matter. Defendant's crime involved the theft of a number of handguns, which were in turn used in at least one other crime. The trial court properly considered the likely effects of defendant's crime, and the nature of the charges dismissed as a part of defendant's plea agreement. *People v Williams*, 223 Mich App 409, 411; 566 NW2d 649 (1997).

Affirmed.

/s/ Hilda R. Gage

/s/ Roman S. Gribbs

/s/ Joel P. Hoekstra