

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERRY WARRICK,

Defendant-Appellant.

UNPUBLISHED

May 28, 1999

No. 207708

Wayne Circuit Court-
Criminal Division

LC No. 96-001343

Before: Griffin, P.J., and Cavanagh and Fitzgerald, JJ.

MEMORANDUM.

Although originally charged with first-degree murder, MCL 750.316; MSA 28.548, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), defendant pleaded nolo contendere to manslaughter, MCL 750.321; MSA 28.553, and felony-firearm. Defendant received consecutive sentences of two years' imprisonment on the felony-firearm conviction and ten to fifteen years' imprisonment on the manslaughter conviction. Defendant appeals by leave. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court imposed a sentence outside of the sentencing guidelines recommendation when it imposed the ten-year minimum sentence. The court gave defendant's lack of remorse as the reason for exceeding the guidelines recommendation. The key test of proportionality is not whether the sentence departs from or adheres to the recommended sentence range but whether the sentence reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). The sentence was proportionate, especially in light of defendant's lack of remorse, the benefit bestowed upon defendant by the plea bargain and the calculated and cold-blooded nature of the killing. *Id.* at 320-321; *People v Dixon*, 217 Mich App 400, 412-413; 552 NW2d 663 (1996).

Affirmed.

/s/ Richard Allen Griffin

/s/ Mark J. Cavanagh

/s/ E. Thomas Fitzgerald