

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

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In the Matter of MICHAEL OWENS, a Minor.

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL OWENS,

Defendant-Appellant.

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UNPUBLISHED

August 3, 1999

No. 213437

Wayne Circuit Court

Family Division

LC No. 98-365565

Before: Markey, P.J., and McDonald and Fitzgerald, JJ.

PER CURIAM.

Defendant appeals as of right from his guilty plea to second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3). At a dispositional hearing, defendant was committed to the Family Independence Agency (FIA). We affirm.

Defendant's first issue on appeal is that the trial court erred in accepting defendant's guilty plea to second-degree home invasion because it was not supported by sufficient facts. Defendant has waived this issue on appeal by failing to move to withdraw his plea in the trial court. MCR 6.311(C); *People v Beasley*, 198 Mich App 40, 42-43; 497 NW2d 200 (1993). Nevertheless, we disagree with defendant that there was not a sufficient factual basis for the plea. A factfinder could properly convict defendant of second-degree home invasion under an aiding and abetting theory from the facts the trial court elicited from defendant. Accordingly, there was a sufficient factual basis for the plea. *People v Brownfield (After Remand)*, 216 Mich App 429, 431; 548 NW2d 248 (1996).

Defendant next argues the trial court should not have committed him to the FIA because this was his first offense, the offense he committed was neither the most egregious nor assaultive, and because the support of his family members offered other options besides committing him to the FIA. We disagree.

This Court reviews the sentence imposed on a juvenile for an abuse of discretion, utilizing the principle of proportionality. *People v Passeno*, 195 Mich App 91, 103-104; 489 NW2d 152 (1992), overruled in part on other grounds *People v Bigelow*, 229 Mich App 218, 221; 581 NW2d 744 (1998). An abuse of discretion will be found if the sentence imposed is not 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 trial court considered a variety of factors in sentencing defendant including the seriousness of the instant offense, i.e. violating the home of a neighbor, defendant's poor school record, defendant's use of alcohol and drugs, and a psychological evaluation of defendant that indicated he showed problems relating to people, especially authority figures. We find the sentence imposed is proportionate to defendant and the offense he committed, and the trial court did not abuse its discretion in committing defendant to the FIA.

Affirmed.

/s/ Jane E. Markey

/s/ Gary R. McDonald

/s/ E. Thomas Fitzgerald