

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAQUELINE L. CONKLIN,

Defendant-Appellant.

UNPUBLISHED
September 7, 1999

No. 207693
Alcona Circuit Court
LC Nos. 97-009588 FH
97-009591 FH
97-009594 FH
97-009596 FH
97-009598 FH
97-009599 FH
97-009601 FH
97-009605 FH
97-009606 FH
97-009607 FH

Before: Markman, P.J., and Saad and P.D. Houk,* JJ.

PER CURIAM.

Defendant appeals of right from her sentences in ten cases for her plea-based convictions of uttering and publishing, MCL 750.249; MSA 28.446, forgery, 750.248; MSA 28.445, embezzlement over \$100, MCL 750.174; MSA 28.371, and false pretenses, MCL 750.218; MSA 28.415. We affirm.

Defendant pleaded guilty in twenty-four cases to three counts of uttering and publishing, seventeen counts of forgery, twenty-two counts of embezzlement over \$100, and three counts of false pretenses. In her dealings as a real estate broker over the course of ten years, defendant defrauded numerous victims out of funds totaling more than \$466,000.

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

The guidelines recommended a minimum sentence range of zero to twelve months. The trial court sentenced defendant to concurrent terms of nine years, four months to fourteen years for the convictions of uttering and publishing and forgery, and to six years, eight months to ten years for the convictions of embezzlement and false pretenses, with credit for 338 days. The court stated that its reasons for exceeding the guidelines were the great number of offenses, the sophistication and vastness of the lengthy scheme, and the fact that much of the money had not been recovered. Defendant was ordered to pay \$466,092.28 in restitution.

Defendant claims an appeal from her sentences in each of the ten cases in which the offenses occurred prior to the amendment of Const 1963, art 1, § 20 to provide for appellate review of plea-based convictions by leave only.

Defendant argues that her sentences are disproportionate because the trial court's stated reasons for exceeding the guidelines are already accounted for in the guidelines. We disagree. Sentence length is reviewed pursuant to the principle of proportionality. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). A court may justify a sentence that exceeds the guidelines by referring to factors which are not adequately weighed in the guidelines. *People v Castillo*, 230 Mich App 442, 448; 584 NW2d 606 (1998). The guidelines did not contemplate a fraudulent scheme of the size and duration committed by defendant. The extensive departure was justified by the seriousness of the circumstances surrounding the offense and the offender. The court adequately explained its reasons for departing from the guidelines. *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987); MCR 6.425(D)(1).

In imposing sentence, the court stated that while it intended that defendant be granted credit for time served on her federal sentence, it recognized that it might not have the authority to make such an order. The court's sentence was not based on a misconception of the law, and thus was not invalid. Defendant is not entitled to resentencing. *People v Miles*, 454 Mich 90, 96; 559 NW2d 299 (1997).

MCL 769.1a(8); MSA 28.1073(8) authorizes restitution. At sentencing, defendant failed to object to the order of restitution on the grounds that it duplicated the federal order for same. This failure precludes appellate review of defendant's claim. *People v Gahan*, 456 Mich 264, 276; 571 NW2d 503 (1997). Any dispute regarding the appropriate recipient of any restitution paid by defendant is properly addressed to the trial court.

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk