

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RODERICK DEVON FROST,

Defendant-Appellant.

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UNPUBLISHED

December 7, 1999

No. 213983

Ingham Circuit Court

LC No. 98-073038 FH

Before: Hoekstra, P.J., and McDonald and Meter, JJ.

PER CURIAM.

Defendant was convicted in a bench trial of assault with intent to rob while armed, MCL 750.89; MSA 28.284, and carrying a concealed weapon, MCL 750.227; MSA 28.424. Defendant was sentenced to concurrent prison terms of 120 to 240 months for the assault conviction and 36 to 60 months for the carrying a concealed weapon conviction. Defendant appeals as of right. We affirm.

Defendant argues that the sentencing court abused its discretion by imposing on him a disproportionately harsh sentence. Specifically, defendant claims that because unusual circumstances existed, his minimum sentence should have been in the low end of the sentencing guidelines' range, rather than mid-range. We review sentencing decisions for abuse of discretion. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990); *People v McCrady*, 213 Mich App 474, 483; 540 NW2d 718 (1995). Criminal sentences must be "proportionate to the seriousness of the circumstances surrounding the offense and the offender." *Milbourn, supra* at 636. A sentencing court abuses its discretion if it fails to adhere to the principle of proportionality. *Id.*; *McCrady, supra* at 483. A sentence that is within the guidelines is presumptively valid and proportionate, *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Jones*, 201 Mich App 449, 457; 506 NW2d 542 (1993); however, a sentence that is within the guidelines may constitute an abuse of discretion where unusual circumstances exist, *Milbourn, supra* at 661; *People v Hadley*, 199 Mich App 96, 105; 501 NW2d 219 (1993). Looking to Black's Law Dictionary, this Court has construed the term "unusual circumstances" to mean "uncommon" or "rare" circumstances. *People v Sharp*, 192 Mich App 501, 505; 481 NW2d 773 (1992).

Here, defendant's minimum sentence of 120 months for the assault offense is within the guidelines' sentencing range of 60 to 180 months, and therefore is presumptively proportionate. *Broden, supra* at 354-355; *Jones, supra* at 457. Defendant argues unusual circumstances existed because he was only eighteen years old, had only a ninth-grade education, had virtually no employment experience, had no prior felony convictions, and could have stolen the car during the incident, as a more experienced criminal might have done, but did not. These proffered "unusual circumstances" do not amount to anything other than youth, inexperience, lack of prior record or inartful perpetration; factors which have been found not to be unusual circumstances. *People v St John*, 230 Mich App 644, 650; 585 NW2d 849 (1998); *People v Piotrowski*, 211 Mich App 527, 532-533; 536 NW2d 293 (1995); *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Defendant also argues that the testimony of the primary witnesses was not credible, that the record supports an inference of abandonment of criminal purpose, that only drug users, not the general public, were threatened with harm, and that he had a low IQ. None of these circumstances would constitute a rarity. *Sharp, supra* at 505. Defendant cites no authority to the contrary.

Moreover, to the extent that any mitigating or unusual circumstances existed, the record reveals that the sentencing court considered them in addition to considering the severity of the crime. As a result, there was ample justification for the sentence imposed. The sentencing court did not abuse its discretion.

Affirmed.

/s/ Joel P. Hoekstra  
/s/ Gary R. McDonald  
/s/ Patrick M. Meter