

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

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAMIAN BLACK,

Defendant-Appellant.

---

UNPUBLISHED

March 31, 2000

No. 210029

Recorder's Court

LC No. 97-004704

Before: Cavanagh, P.J., and White and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right the sentence imposed for his convictions of second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court sentenced defendant to twenty-three to fifty years' imprisonment for the second-degree murder conviction and the mandatory consecutive sentence of two years' imprisonment for the felony-firearm conviction. We affirm.

Defendant's sole issue on appeal is that he is entitled to resentencing because his sentence for the second-degree murder conviction is disproportionate. A trial court's imposition of a particular sentence is reviewed on appeal for an abuse of discretion, which will be found where the sentence imposed does not reasonably reflect the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

Defendant's minimum sentence is within the sentencing guidelines range and is therefore presumptively proportionate. See *People v Broden*, 428 Mich 343, 354; 408 NW2d 789 (1987). Defendant has failed to present unusual circumstances sufficient to overcome the presumption of proportionality. See *People v Lyons*, 222 Mich App 319, 324; 564 NW2d 114 (1997). Contrary to defendant's argument, his lack of a criminal record and past employment are not considered unusual circumstances that would overcome the presumption. See *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). We conclude that defendant's sentence is proportionate to

the seriousness of the circumstances surrounding the offense and the offender. See *Milbourn, supra*.

Affirmed.

/s/ Mark J. Cavanagh

/s/ Helene N. White

/s/ Michael J. Talbot