

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FLOYD LEE PERKINS,

Defendant-Appellant.

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UNPUBLISHED

July 7, 2000

No. 221432

Genesee Circuit Court

LC No. 98-003220-FH

Before: Jansen, P. J., and Hood and Saad, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his plea-based conviction for involuntary manslaughter, MCL 750.321; MSA 28.553. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the trial court abused its discretion in imposing a disproportionate 48 to 180 month sentence that was not tailored to the circumstances of the crime. We disagree.

This Court reviews a defendant's sentence for an abuse of discretion. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999). A sentence constitutes an abuse of discretion if it violates the principle of proportionality. *Id.* Sentences imposed must be proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). A sentence that falls within the sentencing guidelines is presumptively proportionate, and defendant bears the burden of establishing unusual circumstances that would make the sentence disproportionate. *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995).

The trial court did not abuse its discretion in imposing the sentence in this case. The sentencing guidelines were scored at 24 to 84 months. The trial court considered the unusual circumstances: the victim was an aggressive drunk who attempted to enter defendant's home. However, the court also found that defendant was not in danger, obtained weapons, and left his

house with his son to confront the victim, rather than call police. The court carefully crafted the sentence to fit the totality of the circumstances, and did not abuse its discretion.

Affirmed.

/s/ Kathleen Jansen

/s/ Harold Hood

/s/ Henry William Saad