

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee

v

KEVIN PATRICK TREVOR,

Defendant-Appellant

UNPUBLISHED

August 4, 2000

No. 218732

Osceola Circuit Court

LC No. 98-002872-FH

Before: Murphy, P.J., and Kelly and Talbot, JJ.

MEMORANDUM.

Defendant was convicted by a jury of unlawful driving away of an automobile, MCL 750.414; MSA 28.646, and fleeing and eluding a police officer, MCL 750.479a; MSA 28.747(1), for which he was sentenced as an habitual offender, third offense, to serve concurrent prison terms of 32 to 48 months and to pay a fine of \$1,000. Defendant appeals as of right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that because he was sentenced to imprisonment for both convictions, the maximum fine that could be imposed was \$500 under the fleeing and eluding statute. While a difference in language exists between the two penal statutes, i.e., one provides for imprisonment “or” a fine, and the other expressly provides for imprisonment, a fine, “or both,” the distinction is without a difference in light of MCL 769.5; MSA 28.1077. The statute provides in pertinent part that where “an offense shall be punished by fine or imprisonment, the court may impose both such fine and imprisonment in its discretion.” Thus, the trial court in this case was authorized to impose, in its discretion, both imprisonment and a fine under the UDAA statute. See *People v Krum*, 374 Mich 356, 361-362; 132 NW2d 69 (1965). Accordingly, a total fine of \$1,000 for defendant’s two convictions is not invalid.

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Michael J. Talbot