

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT EUGENE HOLLEY,

Defendant-Appellant.

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UNPUBLISHED

August 8, 2000

No. 217189

Calhoun Circuit Court

LC No. 98-001902-FH

Before: Gage, P.J., and Gribbs and Sawyer, JJ.

MEMORANDUM.

Defendant was convicted of one count of resisting and obstructing a police officer, MCL 750.479; MSA 28.747, and two counts of domestic violence, MCL 750.81; MSA 28.276. He was sentenced as a fourth habitual offender, MCL 769.12; MSA 28.1084, to concurrent terms of three to fifteen years', and ninety-three days. Defendant appeals by right. We affirm.

On appeal defendant argues only that his sentence is disproportionate. There is no merit to this claim. Although defendant first contends that his sentence is outside the sentencing guidelines range, the guidelines do not apply to habitual offender convictions. *People v Gatewood*, (On Remand) 216 Mich App 559, 560; 550 NW2d 265 (1996). A proportional sentence is one that reflects the seriousness of the offense and the circumstances of the offender. *People v Milbourn*, 435 Mich 630, 650; 461 NW2d 1 (1990). A sentence that violates the principle of proportionality is an abuse of discretion. *Id.*, 653.

We find no abuse of discretion here. Defendant has seven prior convictions, and all but one involve assaultive behavior. In this case defendant not only assaulted his adult girlfriend but also punched her two-year-old child in the head. It took three officers to subdue and arrest him.

Defendant was on parole at the time of the instant crimes. Defendant's sentence was proportionate to the circumstances surrounding the offense and the offender.

Affirmed.

/s/ Hilda R. Gage  
/s/ Roman S. Gibbs  
/s/ David H. Sawyer