

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HANS CHRISTIAN NELSON,

Defendant-Appellant.

UNPUBLISHED

December 15, 2000

No. 213824

Delta Circuit Court

LC No. 96-005921-FC

Before: Gribbs, P.J., and Kelly and Hoekstra, JJ.

PER CURIAM.

Defendant was convicted by a jury of second-degree murder, MCL 750.317; MSA 28.549, and possession of a firearm during the commission of a felony, MCL 750.227b(1); MSA 28.424(2)(1). He appeals as of right. We affirm.

Defendant admitted purchasing a shotgun and other items, breaking into his uncle's house at night, and fatally shooting his uncle. This occurred two days after defendant was involved in a fight at his uncle's house and was hit over the head with a beer bottle. Defendant was charged with open murder, but claimed that he lacked the mental capacity to form the intent necessary for first-degree murder. The jury convicted defendant of the lesser offense of second-degree murder. Defendant was sentenced within the guidelines' range to twenty-five to forty-eight years' imprisonment for the murder conviction, and a consecutive two-year term for the felony-firearm conviction.

Defendant argues that the trial court, in imposing sentence, improperly failed to take into account the mitigating psychiatric testimony regarding his mental impairment. Defendant also argues that the presentence report was incomplete because it relied on information gathered from police reports, and not on the evidence presented at trial. There is no merit to either issue.

Defendant's sentence was properly individualized. *People v Adams*, 430 Mich 679, 686; 425 NW2d 437 (1988). Defendant has not demonstrated that the trial court failed to consider the evidence of his mental impairment, only that the trial court did not mention the evidence when imposing sentence. The trial court gave adequate reasons for defendant's sentence and, moreover, a sentence within the guidelines is preemptively proportionate. *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997). We find nothing to overcome that presumption here. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994).

The presentence report's description of the offense was complete, having been taken from police reports detailing defendant's own statements, in which he admitted to the murder. The report was compiled with the requirements of law, MCL 771.14; MSA 28.1144, MCR 6.425(A), and defendant cites no authority for the suggestion that specific resources must be used in preparing the report.

Affirmed.

/s/ Roman S. Gribbs
/s/ Michael J. Kelly
/s/ Joel P. Hoekstra