

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY WATTS,

Defendant-Appellant.

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UNPUBLISHED

December 26, 2000

No. 217119

Wayne Circuit Court

Criminal Division

LC No. 98-004128

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

PER CURIAM.

Defendant was convicted by a jury of voluntary manslaughter, MCL 750.321; MSA 28.553, armed robbery, MCL 750.529; MSA 28.797, and larceny in a building, MCL 750.360; MSA 28.592. He was sentenced to concurrent prison terms of ten to fifteen years for the manslaughter conviction, twenty to forty years for the armed robbery conviction, and two to four years for the larceny conviction. He appeals as of right. We affirm.

Defendant argues that the trial court abused its discretion when it refused to allow him to question the prosecution's principal witness, an alleged accomplice who testified against defendant at trial, about the witness' suicide attempt on the night he was arrested.

A trial court's decision to admit or exclude evidence is reviewed for abuse of discretion. *People v Smith*, 456 Mich 543, 550; 581 NW2d 654 (1998). Here, we agree that the evidence was properly excluded because there was no evidence supporting defendant's theory that the witness' suicide attempt demonstrated that the witness was so desperate to avoid a life sentence that he would do anything, including blame defendant, to save himself from a murder charge. Even if the evidence was improperly excluded, however, defendant has not demonstrated that it is more probable than not that the result of the trial would have been different had the evidence been admitted. *People v Lukity*, 460 Mich 484, 494, 495; 596 NW2d 607 (1999).

Apart from the evidence of the witness' suicide attempt, the witness admitted that he pleaded guilty to armed robbery in exchange for his testimony against defendant and the dismissal of a murder charge, and that he "gave" defendant to the police to avoid life in prison. Additionally, the witness was extensively impeached with prior inconsistencies in his testimony at the preliminary examination, and in his prior statements made to the police. Several other witnesses also testified that the victim was "terrified" of the witness, that the witness was taking

the victim's money, and that the witness was involved in disposing of stolen property after the crime. Furthermore, apart from the witness' testimony, several other witnesses, many of whom were defendant's friends and were reluctant to testify, provided testimony linking defendant to the charged offense. Considered in the context of this other evidence, we cannot conclude that it is more probable than not that the outcome of the trial would have been different had the evidence of the witness' suicide attempt been admitted. *Lukity, supra*.

Defendant also argues that the trial court improperly sentenced him as though he was convicted of murder, resulting in sentences that were disproportionate to the seriousness of the offense and the offender. We disagree.

The trial court's comments at sentencing, viewed in context, do not indicate that the court sentenced defendant for a crime greater than voluntary manslaughter. Indeed, defendant's minimum sentences for both manslaughter and armed robbery were within the ranges recommended by the sentencing guidelines and, therefore, are presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); see also *People v Milbourn*, 435 Mich 630, 656; 461 NW2d 1 (1990). We conclude that defendant has failed to carry "the heavy burden of overcoming this presumption." *People v Spearman*, 195 Mich App 434, 442; 491 NW2d 606 (1992); see also *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). Defendant's sentences do not violate the concept of proportionality. *Milbourn, supra* at 636.

Affirmed.

/s/ David H. Sawyer  
/s/ Kathleen Jansen  
/s/ Hilda R. Gage