

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL L. PUTSAY,

Defendant-Appellant.

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UNPUBLISHED

January 16, 2001

No. 218915

Wayne Circuit Court

LC No. 98-004612

Before: Markey, P.J., and Whitbeck and J. L. Martlew\*, JJ.

PER CURIAM.

Defendant Daniel Putsay appeals as of right his bench trial conviction for manslaughter with a motor vehicle.<sup>1</sup> We affirm.

I. Basic Facts And Procedural History

Putsay was charged with second-degree murder in the death of his brother-in-law, Jeffrey Patterson. Patterson and Putsay had ostensibly friendly relations. On the night of March 27, 1998, Patterson went with Putsay to help him move some furniture. They went to a bar where they got into a fight. After the fight appeared to be over, Putsay returned to his car. The fight resumed, and Patterson swung a downspout at Putsay's car. Putsay then used his car to run over Patterson. Then he drove home. Patterson's body was found in the street later that night.

After extensively reviewing the evidence, the trial court found that it was not convinced beyond a reasonable doubt that Putsay had the intent to kill, to do great bodily harm, or acted in willful disregard of the likelihood that the tendency of his act would cause death or great bodily harm. The trial court found that Putsay operated his vehicle in a grossly negligent manner, causing Patterson's death and that Putsay was guilty of involuntary manslaughter with a motor vehicle.

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<sup>1</sup> MCL 750.321; MSA 28.553.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

The sentencing guidelines were calculated at thirty-six to ninety-six months. The trial court sentenced Putsay at the top of the guidelines range to eight to fifteen years' imprisonment. As a condition of parole, the trial court required Putsay to pay \$4,642.70 in restitution for Patterson's funeral expenses.

## II. Sentencing

### A. Standard Of Review

Putsay argues that his sentence of eight to fifteen years' imprisonment violates the principle of proportionality. We review the sentence imposed for an abuse of discretion.<sup>2</sup>

### B. Proportionality

Putsay's minimum sentence fell within the guidelines range of thirty-six to ninety-six months. A sentence within the guidelines is presumptively proportionate and a defendant bears the burden of presenting circumstances that would overcome that presumption.<sup>3</sup> "[T]he 'key test' of proportionality is not whether the sentence departs from or adheres to the recommended range, but whether it reflects the seriousness of the matter."<sup>4</sup> We conclude that the sentence the trial court imposed reflected the serious nature of the crime committed and Putsay's circumstances. We hold that the trial court did not abuse its discretion.

Affirmed.

/s/ Jane E. Markey  
/s/ William C. Whitbeck  
/s/ Jeffrey L. Martlew

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<sup>2</sup> *People v Noble*, 238 Mich App 647, 661; 608 NW2d 123 (1999).

<sup>3</sup> *People v Wybrecht*, 222 Mich App 160, 175; 564 NW2d 903 (1997).

<sup>4</sup> *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995), quoting *People v Milbourn*, 435 Mich 660, 661; 461 NW2d 1 (1990).