

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JERMAINE LAVELL WARD,

Defendant-Appellant.

UNPUBLISHED

May 25, 2001

No. 229662

Wayne Circuit Court

LC No. 99-005672

Before: Jansen, P.J., and Zahra and Owens, JJ.

MEMORANDUM.

Defendant appeals by right from his sentence of five and one-half to fifteen years in prison for his plea-based conviction of voluntary manslaughter, MCL 750.321; MSA 28.553. We affirm.

Defendant was charged as an adult with second-degree murder, MCL 750.317; MSA 28.549, and assault with intent to commit murder, MCL 750.83; MSA 28.278, for a shooting death that occurred when he was a juvenile. The parties agreed that defendant would plead guilty of the reduced charge of voluntary manslaughter in return for dismissal of the assault charge and the prosecution's acceptance of a minimum term within the applicable judicial sentencing guidelines. The trial court evaluated the case pursuant to *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993), and concluded that it would be willing to impose a sentence of five and one-half to fifteen years. Defendant pleaded guilty of voluntary manslaughter, and was sentenced to five and one-half to fifteen years in prison. The minimum term was within the guidelines.

Defendant argues that he is entitled to resentencing for the reason that his minimum term of five and one-half years is disproportionate to his circumstances and those of the offense. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). He asserts that his minimum term is excessive given his lack of a significant prior record, his history of employment, and his effort to lead a productive life in spite of his unfortunate upbringing. We disagree and affirm defendant's sentence. Defendant's minimum term of five and one-half years was within the applicable sentencing guidelines, and thus is presumptively proportionate. *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997). Furthermore, a defendant who pleads guilty or nolo contendere with knowledge of the sentence demonstrates his agreement that the sentence is proportionate. *Cobbs, supra* at 285.

Affirmed.

/s/ Kathleen Jansen
/s/ Brian K. Zahra
/s/ Donald S. Owens