

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

SHANARD KNOLTON,

Defendant-Appellant.

UNPUBLISHED

May 29, 2001

No. 221973

Kent Circuit Court

LC No. 99-000961-FH

Before: McDonald, P.J., and Smolenski and K.F. Kelly, JJ.

MEMORANDUM.

Defendant was convicted by a jury of carrying a weapon on his person¹, possession with intent to deliver less than fifty grams of cocaine, second offense², and possession of a firearm during the commission of a felony³. He was sentenced to serve a mandatory two-year prison term for the felony-firearm conviction, consecutive to prison terms of five to twenty years' on the narcotics conviction and three to five years' on the weapons conviction. He appeals as of right, and we affirm.

Defendant argues on appeal that his indeterminate sentences are disproportionate. We disagree. Under the subsequent-offender provision of the Controlled Substances Act⁴, defendant was subject to double the minimum penalty authorized by MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), which mandates a prison sentence of not less than one year nor more than twenty years. *People v Davenport*, 205 Mich App 399, 401; 522 NW2d 339 (1994). Although the sentencing guidelines are not applicable to a defendant whose sentence is enhanced under § 7413(2), *People v White*, 208 Mich App 126, 135; 527 NW2d 34 (1994), the sentence imposed must be proportionate to the seriousness of the circumstances surrounding the offense and the offender, *People v Milbourn*, 435 Mich 630, 661; 461 NW2d 1 (1990); *People v Green*, 205 Mich App 342; 517 NW2d 782 (1994). Under the circumstances of this offender and the

¹ MCL 750.227; MSA 28.424.

² MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv); MCL 333.7413(2); MSA 14.15(7413)(2).

³ MCL 750.227b; MSA 28.424(2).

⁴ MCL 333.7413(2); MSA 14.15(7413)(2).

seriousness of the current offenses, we conclude that defendant's sentences do not violate the principle of proportionality.

Affirmed.

/s/ Gary R. McDonald
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly