

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ERNEST VERNARD STEWART,

Defendant-Appellant.

UNPUBLISHED

July 13, 2001

No. 222313

Macomb Circuit Court

LC No. 99-001649-FH

Before: Saad, P.J., and Holbrook, Jr., and Murphy, JJ.

MEMORANDUM.

Defendant appeals as of right from a conviction of first-degree retail fraud, MCL 750.356c, for which he was sentenced as an habitual offender, fourth offense, MCL 769.12, to eight to fifteen years in prison. We affirm.

Defendant's sole issue on appeal is that his sentence was disproportionate. This Court's review is limited to determining whether the trial court abused its discretion by violating the principle of proportionality. An abuse of discretion will be found "where the sentence imposed does not reasonably reflect the seriousness of the circumstances surrounding the offense and the offender." *People v St John*, 230 Mich App 644, 649; 585 NW2d 849 (1998); *People v Castillo*, 230 Mich App 442, 447; 584 NW2d 606 (1998).

A sentence must be proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). "A trial court does not abuse its discretion in sentencing an habitual offender within the statutory limits established by the Legislature when the offender's underlying felony, in the context of previous felonies, evinces the defendant's inability to conform his conduct to the laws of society." *People v Reynolds*, 240 Mich App 250, 252; 611 NW2d 316 (2000). Defendant's sentence fell within the statutory limit for the offense. MCL 769.12(1)(b). The instant offense was one of a long line of theft offenses committed by this defendant over the past twenty-eight years and was committed only four days after defendant was paroled from a prison sentence imposed for a previous conviction of first-degree retail fraud. The record clearly reveals defendant's inability to conform his behavior to the law and thus the court did not abuse its discretion. *Reynolds, supra*.

Although the minimum sentence imposed was greater than that applicable under the statutory sentencing guidelines, MCL 777.1 *et seq.*, which take habitual offender status into account, the statutory guidelines only apply to crimes committed on or after January 1, 1999, and are not retroactive. *Reynolds, supra* at 253-254. The trial court articulated on the record the reasons for imposing defendant's sentence. MCR 6.425(D)(2)(e). While the court only mentioned one of the four sentencing objectives, it is not required to expressly mention each goal of sentencing when imposing sentence. *People v Rice (On Remand)*, 235 Mich App 429, 446; 597 NW2d 843 (1999).

Affirmed.

/s/ Henry William Saad
/s/ Donald E. Holbrook, Jr.
/s/ William B. Murphy