

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTHONY D. WHITE,

Defendant-Appellant.

UNPUBLISHED

October 30, 2001

No. 219374

Wayne Circuit Court

Criminal Division

LC No. 98-012345

AFTER REMAND

Before: Bandstra, C.J., and Whitbeck and Owens, JJ.

PER CURIAM.

This case is before us a second time, following our remand to the trial court for articulation of the reasons for defendant's sentence. Defendant was convicted of first-degree home invasion, MCL 750.110a(2), and sentenced to a term of seven to twenty years' imprisonment. He appealed as of right. We affirmed defendant's conviction, but retained jurisdiction to review defendant's challenge to the proportionality of his sentence upon our receipt of the trial court's articulation of the reasons for defendant's sentence. We affirm.

The sole issue remaining on appeal is defendant's contention that his sentence is disproportionate.¹ We review sentences for an abuse of discretion. *People v Noble*, 238 Mich App 647, 661; 608 NW2d 123 (1999). An abuse of discretion will be found only where "an unprejudiced person, considering the facts on which the trial court acted, would say there was no justification or excuse for the ruling made." *People v Snider*, 239 Mich App 393, 419; 608 NW2d 502 (2000). In the context of sentencing, the trial court abuses its discretion when it imposes a sentence that is not proportional to the circumstances surrounding the offense and the offender. See *People v Houston*, 448 Mich 312, 319; 532 NW2d 508 (1995); *People v Milbourn*, 435 Mich 630, 651; 461 NW2d 1 (1990).

On remand, the trial court noted that defendant had demonstrated a pattern of breaking into the victim's house "with impunity whenever he felt like it," which had caused the victim to

¹ Because the crime occurred before January 1, 1999, the statutory sentencing guidelines are inapplicable. *People v Leversee*, 243 Mich App 337, 348; 622 NW2d 325 (2000).

have mental and emotional problems. The trial court opined that the public was at risk from an individual willing to break into an occupied house, and that the sentence needed to properly protect the public from this risk. In addition, the trial court referenced defendant's prior conviction for robbery, as well as his inability to remedy his drug problem. Based on these reasons, which have factual support in the record, we believe that the trial court was within its discretion to impose a seven to twenty year sentence in the instant matter.

Affirmed.

/s/ Richard A. Bandstra

/s/ William C. Whitbeck

/s/ Donald S. Owens