

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LARRY LEROY CLEVELAND,

Defendant-Appellant.

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UNPUBLISHED

April 9, 2002

No. 227961

Cass Circuit Court

LC No. 99-010085-FH

Before: K.F. Kelly, P.J. and Doctoroff and Cavanagh, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of operating under the influence of intoxicating liquor, third offense, MCL 257.625(8)(c). The trial court sentenced him as a fourth felony offender, MCL 769.12, to fifty-eight months' to fifteen years' imprisonment. Defendant appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole issue on appeal is that his sentence was disproportionately harsh under *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). We find this claim to be without merit. Defendant's offense took place after January 1, 1999 and he was sentenced under the statutory sentencing guidelines. MCL 769.34(1) and (2). His minimum sentence was within the recommended minimum range under the guidelines.

When a minimum sentence is within the appropriate statutory guidelines range, this Court must affirm that sentence. MCL 769.34(10). *People v Babcock*, 244 Mich App 64, 73; 624 NW2d 479 (2000). The statutory guidelines do not contemplate further review under *Milbourn*. *Id.* at 77-78.

Affirmed.

/s/ Kirsten Frank Kelly

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh