

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL ALLEN PARTIN,

Defendant-Appellant.

UNPUBLISHED

December 6, 1996

No. 188815

LC No. 94-013964-FH

Before: Fitzgerald, P.J., and Cavanagh and N.J. Lambros,* JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of felonious driving, MCL 752.191; MSA 28.661. He subsequently pleaded guilty of being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084. Defendant was sentenced to a prison term of four to fifteen years. He appeals as of right. We affirm defendant's convictions and sentences, but remand for articulation as to the reasons for the sentences imposed.

Defendant argues that insufficient evidence was presented to sustain his conviction for felonious driving. Specifically, defendant argues that insufficient evidence was presented to prove that the victim sustained "crippling" injuries. Defendant also argues that insufficient evidence was presented to prove that he was driving in the manner described in the relevant statute. We disagree with both of defendant's contentions.

MCL 752.191; MSA 28.661 provides in relevant part:

Every person who drives any vehicle upon a highway carelessly and heedlessly in willful and wanton disregard of the rights and safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property and thereby injuring so as to cripple any person, but not causing death, shall be guilty of the offense of felonious driving . . .

* Circuit judge, sitting on the Court of Appeals by assignment.

In *People v Lockwood*, 308 Mich 618, 621; 14 NW2d 517 (1944), our Supreme Court defined the term “to cripple” for purpose of satisfying the felonious driving statute as:

(1) to deprive the use of a limb, particularly of a leg or foot; to lame.

(2) to deprive of strength, activity or capability for service. [Quoting Webster’s New International Dictionary (2d ed).]

[The] word ‘crippling’ is the equivalent of words, ‘physical disability’ and is defined as to deprive of use of limbs, particularly of leg or foot, to deprive of strength, activity or capability for service or sue, and to disable. 10 Words & Phrases (Perm Ed), p 544.

Recently, in *People v Morton*, 213 Mich App 331, 333-334; 539 NW2d 771 (1995), this Court embraced the *Lockwood* Court’s definition of crippling and noted that the victim’s injury does not have to be permanent to satisfy the statute.

We find that the injuries sustained by the victim¹ satisfied the *Lockwood* definition of crippling and, therefore, the statute. *Lockwood*, *supra* at 621; *Morton*, *supra* at 334. Further, because the evidence indicated that defendant ran two red lights through major intersections at approximately 7:00 p.m., we find that the statute was satisfied. See *People v Marshall*, 74 Mich App 523, 526; 255 NW2d 351 (1977). Therefore, in viewing the evidence presented in the light most favorable to the prosecution, we find a rational trier of fact could find defendant guilty of felonious driving beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

Next, defendant argues that he is entitled to resentencing because the sentencing court failed to articulate its reasons for the sentence imposed, was proceeding under a misconception of the law, and imposed a disproportionate sentence. While we agree that the trial court failed to articulate its reasons for the sentence imposed, we disagree that defendant is entitled to resentencing.

To facilitate appellate review, the sentencing court must articulate on the record the criteria considered and the reasons for the sentence imposed. *People v Fleming*, 428 Mich 408, 428; 410 NW2d 266 (1987). Here, because the sentencing court failed to articulate any reasons for defendant’s sentences, and because the prosecutor concedes that remand for this purpose is necessary, we remand for articulation and explanation on the record. Resentencing is not necessary to correct this error. *People v Triplett*, 432 Mich 568, 573; 442 NW2d 622 (1989).

Our review of an habitual offender sentence is limited to considering whether the sentence violates the principle of proportionality set forth in *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990), without reference to the guidelines. *People v Gatewood (on Remand)*, 216 Mich App 559; 550 NW2d 265 (1996). In light of the circumstances surrounding the offense and offender in this case, as well as defendant’s prior criminal history, we conclude that defendant’s sentence as a fourth habitual felony offender did not violate the principle of proportionality. *Milbourn*, *supra* at 635-636. In addition, there is nothing in the record to support defendant’s contention that the sentencing court was

operating under a misconception of the law. Therefore, the sentencing court did not abuse its discretion in sentencing defendant. *People v Cervantes*, 448 Mich 620, 627, 630, 637; 532 NW2d 831 (1995).

Defendant's convictions and sentence are affirmed. The case is remanded for an explanation of the sentence imposed. Jurisdiction is not retained.

/s/ E. Thomas Fitzgerald

/s/ Mark J. Cavanagh

/s/ Nicholas J. Lambros

¹ The victim suffered eight broken ribs, a pelvic bone cracked in two places, a swollen elbow, internal bleeding from her lungs which required the insertion of a chest tube and necessitated two blood transfusions, and injury to her back, all of which required a fifteen day hospital stay, including time spent in an intensive care unit.