

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DANIEL HATFIELD,

Defendant-Appellant.

UNPUBLISHED

January 17, 1997

No. 189429

Arenac Circuit Court

LC No. 95-002268-FH

Before: McDonald, P.J., and Murphy and M.F. Sapala,* JJ.

PER CURIAM.

Defendant pleaded guilty to malicious destruction of property less than \$100, MCL 750.377a; MSA 28.609(1), two counts of misdemeanor assault and battery, MCL 750.81; MSA 28.276, and possession of marijuana, MCL 333.7403(2)(d), MSA 14.15(7403)(2)(d). Defendant was convicted following a jury trial of carrying a concealed weapon, MCL 750.227; MSA 28.424, and being an habitual offender, fourth offense, MCL 769.12; MSA 28.1084. Defendant was sentenced to serve fifteen to twenty-five years in prison. We affirm.

Defendant claims that his sentence is disproportionate in light of the fact that the underlying offense was carrying a concealed knife. We disagree.

Defendant argues that his sentence is disproportionate when looked at in conjunction with the guidelines range for the underlying offense. However, appellate review of habitual offender sentences using the sentencing guidelines in any fashion is inappropriate. *People v Gatewood (On Remand)*, 216 Mich App 559, 560; 550 NW2d 265 (1996). Thus, 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. *Gatewood, supra*.

* Recorder's Court judge, sitting on the Court of Appeals by assignment.

Defendant has six prior felonies, three prior prison terms, and was on parole at the time he committed the instant offense. He has been charged with misconduct while in prison, and previously escaped from prison. Although the instant offense, in and of itself, is relatively minor, defendant's actions show that he has no respect for the law or the legal system, and that society needs to be protected from him. If an offender with previous felony convictions commits another felony, whatever that felony may be, that offender is subject to an enhanced sentence. Because the maximum sentence for the underlying felony of carrying a concealed weapon is five years, defendant faced the possibility of life in prison. It was partially because of the nature of the instant offense that defendant did not receive a life sentence. In light of the circumstances surrounding the offense and the offender, we conclude that defendant's fifteen-year sentence does not violate the principle of proportionality.

Affirmed.

/s/ Gary R. McDonald

/s/ William B. Murphy

/s/ Michael F. Sapala