

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARRYL JOHNSON ,

Defendant-Appellant.

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UNPUBLISHED

March 4, 1997

No. 178987

Recorder's Court

LC No. 93-012678

Before: Fitzgerald, P.J., and Griffin and M.R. Knoblock,\* JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to breaking and entering an occupied dwelling with intent to commit larceny, MCL 750.110; MSA 28.305, and was sentenced to five to fifteen years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant's challenge to the validity of his plea is not properly before this Court because he did not move to withdraw the plea in the trial court. MCR 6.311(C).

Next, defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). The trial court's reasons for the sentence imposed justify the extent of the departure from the recommended range of the sentencing guidelines.

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Richard Allen Griffin

/s/ M. Richard Knoblock

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