

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN JARVIS CRENSHAW,

Defendant-Appellant.

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UNPUBLISHED

September 19, 1997

No. 186213

Genesee Circuit Court

LC No. 95-051650-FH

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

Defendant appeals by right his jury conviction of delivery of cocaine under 50 grams and enhanced five to forty-year sentence imposed as a third habitual offender. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant first contends that the trial court abused its discretion in permitting the prosecutor to impeach his testimony by using his conviction for armed robbery. In evaluating this issue, the trial court was required to weigh the probative value of the conviction for impeachment purposes against its prejudicial effect. MRE 609(b) states that for purposes of a probative value determination, the court could consider only the age of the conviction and the degree to which the conviction was indicative of veracity; to determine prejudicial effect, the court is permitted to weigh only the similarity of the prior conviction to the charged offense and the possible effect on the decisional process if admitting the evidence might cause the defendant to elect not to testify.

Here, the prior conviction was for armed robbery, and although the conviction itself occurred in January, 1991, according to the presentence report, the age of the conviction is measured from the later of the date of conviction or defendant's release from confinement, MRE 609(c). Defendant could not have been paroled before March 1993, so the conviction was fairly recent when this offense was committed. The trial court did not abuse its discretion in admitting the conviction, where defendant chose to testify notwithstanding the court's ruling and the prior conviction was for an offense wholly unrelated to the charged offense. *People v Cross*, 202 Mich App 138, 147; 508 NW2d 144 (1993).

As an habitual offender, the sentence guidelines were wholly irrelevant to a determination of defendant's sentence. *People v Edgett*, 220 Mich App 686; 560 NW2d 360 (1996). Even if defendant had been a first offender, sentence guideline scoring issues are not a cognizable basis for appellate relief. *People v Mitchell*, 454 Mich 145, 170; 560 NW2d 600 (1997). Accordingly, defendant's sentencing issue is without merit as a basis for appellate relief.

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski