

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DESHAWN DWIGHT SHELBY,

Defendant-Appellant.

UNPUBLISHED

December 23, 1997

No. 190320

Recorder's Court

LC No. 94-012496 FC

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals as of right his jury convictions of armed robbery, MCL 750.529; MSA 28.797, assault with intent to rob while armed, MCL 750.89; MSA 28.284, and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and resulting sentences of twenty to fifty years on each of the capital charges plus two years on the felony-firearm charge.

Defendant first contends that the prosecutor deprived him of a fair trial when, without objection, during closing argument the prosecutor allegedly vouched for the credibility of the only eyewitness-victim to the crime who identified defendant as one of the perpetrators. Our review of the argument reflects that the prosecutor simply argued that the testimony of the witness should satisfy the jury beyond a reasonable doubt of defendant's complicity in the crime, based on the evidence. There was no impropriety in this regard, but even if there was error, it did not rise to the level requiring reversal. *People v Bahoda*, 448 Mich 261, 281; 531 NW2d 659 (1995).

Defendant's remaining contention is that his twenty- to fifty-year sentences are disproportionate to the offenses and the offender, because these sentences are at the top of the sentencing guidelines' range of eight to twenty years. At sentencing, defendant presented no unusual circumstances to overcome the presumptive validity of a sentence within the guideline range, and in light of his past criminal record and the circumstances of the offense, that presumption properly applies. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Hogan*, 22_ Mich App __; __ NW2d __ (Docket No. 193789, issued 9/16/97).

Affirmed.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra