

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES GEORGE SIKORSKI,

Defendant-Appellant.

UNPUBLISHED

May 22, 1998

No. 195695

Macomb Circuit Court

LC No. 95-001319-FC

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

MEMORANDUM.

Defendant was convicted of carrying a concealed weapon, MCL 750.227; MSA 28.424; receiving and concealing stolen property in excess of \$100, MCL 750.535(1); MSA 28.803; assault with intent to commit murder, MCL 750.83; MSA 28.278; and possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). Defendant was sentenced to two to five years' imprisonment for carrying a concealed weapon, two to five years' imprisonment for receiving and concealing stolen property, and thirty to sixty years' imprisonment for assault with intent to commit murder. The sentences are to be served concurrently, but consecutive to a two-year sentence for the felony-firearm conviction. Defendant appeals the sentence for his assault conviction as of right. We affirm.

We disagree that defendant's sentence for assault with intent to commit murder was disproportional. The key test of proportionality is not whether the sentence departs from or adheres to the recommended guideline range, but whether it reflects the seriousness of the circumstances surrounding the offense and offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Here, as the sentencing court noted, defendant shot an unsuspecting on-duty police officer in the head. He did so in order to avoid having the officer determine that he was driving a stolen vehicle and to try to avoid going to prison for having fraudulent license plate tags. Defendant confessed that he intended to hurt or kill the officer when he fired the gun from close range. After a thorough review, we conclude that defendant's sentence is an appropriate social response to the crime and the criminal and does not violate the principle of proportionality. It was proper for the trial court to consider defendant's lack of genuine remorse. *People v Houston*, 448 Mich 312, 323; 532 NW2d 508 (1995). It was also

proper for the trial court to consider that the

victim was an on-duty police officer who was simply engaging in the duties of his employment. *People v Marshall*, 204 Mich App 584, 589-590; 517 NW2d 554 (1994).

Affirmed.

/s/ Harold Hood

/s/ Barbara B. MacKenzie

/s/ Martin M. Doctoroff