

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARLAN EDWARD JOHNSON,

Defendant-Appellant.

---

UNPUBLISHED

June 12, 1998

No. 198152

Macomb Circuit Court

LC No. 95-002861 FC

Before: Wahls, P.J., and Jansen and Gage, JJ.

MEMORANDUM.

Defendant pleaded guilty to armed robbery, MCL 750.529; MSA 28.797, and was sentenced to 3-1/2 to 15 years' imprisonment. Defendant appeals by leave granted. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The trial court did not abuse its discretion when it denied defendant's post-sentencing motion to withdraw his guilty plea. *People v Eloby (After Remand)*, 215 Mich App 472, 475; 547 NW2d 48 (1996). No promise of leniency went unfulfilled where, at the time of the plea taking, the trial court informed defendant that it would allow him to withdraw his plea if the court imposed a sentence that exceeded the sentencing guidelines range, which the record indicates that defendant understood to be twelve to forty-eight months, and where the court imposed a forty-two-month minimum sentence. *In re Valle*, 364 Mich 471, 477; 110 NW2d 673 (1961).

Defendant may not challenge the proportionality of his sentence, *People v Cobbs*, 443 Mich 276, 285; 505 NW2d 208 (1993), and, therefore, cannot state a cognizable guidelines scoring challenge, *People v Mitchell*, 454 Mich 145, 176-177; 560 NW2d 600 (1997).

Affirmed.

/s/ Myron H. Wahls

/s/ Kathleen Jansen

/s/ Hilda R. Gage