

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES NELSON,

Defendant-Appellant.

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UNPUBLISHED

July 28, 1998

No. 200960

Saginaw Circuit Court

LC No. 96-012028-FC

Before: Bandstra, P.J., and Griffin and Young, Jr., JJ.

PER CURIAM.

Defendant appeals as of right from his conviction by jury of carrying a dangerous weapon with unlawful intent, MCL 750.226; MSA 28.423. The trial court sentenced him to three to five years' imprisonment. We affirm.

I

Defendant argues that there was insufficient evidence to support his conviction. In assessing whether there was sufficient evidence to sustain a verdict, we view the evidence in the light most favorable to the prosecutor and determine whether a rational jury could have found the defendant guilty beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended 441 Mich 1201 (1992). The elements of the crime of carrying a dangerous weapon with unlawful intent are (1) carrying a dangerous weapon, and (2) with the intent to unlawfully use the weapon against another person. *People v Harrington*, 194 Mich App 424, 428; 487 NW2d 479 (1992); MCL 750.226; MSA 28.423.

Here, these elements were shown by the following evidence: (1) defendant admitted to carrying a steak knife and a curved knife; and (2) the victim testified that defendant threatened to stab her with one of the knives. Although defendant denies that he made this threat, we will not disrupt the jury's resolution of credibility disputes. *People v DeLisle*, 202 Mich App 658, 660; 509 NW2d 885 (1993). The evidence was sufficient for the jury to find defendant guilty beyond a reasonable doubt of carrying a dangerous weapon with unlawful intent. Moreover, it is of no legal consequence that the jury acquitted defendant of three counts of first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2),

that allegedly arose from the same transaction. See *People v Lewis*, 415 Mich 443; 330 NW2d 16 (1982); *People v Vaughn*, 409 Mich 463, 466; 295 NW2d 354 (1980).

## II

Defendant argues that he was denied the effective assistance of counsel because his trial counsel failed to move for a new trial on the ground that the verdict was against the great weight of the evidence. We disagree. To prove ineffective assistance of counsel, a defendant must show that his attorney's performance fell below an objective standard of reasonableness, and that the representation so prejudiced the defendant as to deprive him of a fair trial. *Strickland v Washington*, 466 US 668, 687-688, 690; 104 S Ct 2052; 80 L Ed 2d 674 (1984); *People v Pickens*, 446 Mich 298, 302-303; 521 NW2d 797 (1994). A defendant is required to show that, but for counsel's error, the result of the proceeding would have been different and that the result of the proceeding was fundamentally unfair or unreliable. *People v Messenger*, 221 Mich App 171, 181; 561 NW2d 463 (1997). Here, because the jury's verdict was not against the great weight of the evidence, defendant cannot establish that he was prejudiced by counsel's failure to seek a new trial on that basis.

## III

Defendant argues that his sentence was disproportionate. We review the trial court's sentencing decision for an abuse of discretion. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Because defendant's three-year minimum sentence is within the guidelines, it is presumed to be proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Moreover, defendant has failed to cite any unusual circumstances that would overcome that presumption. *Id.* Finally, we note that defendant has six prior felony convictions and one prior misdemeanor conviction. Defendant was paroled twice and each time violated the terms of his parole. The trial court did not abuse its discretion in sentencing defendant.

## IV

Finally, defendant argues that the trial court failed to adequately articulate its reasons for sentencing, as required by *People v Triplett*, 432 Mich 568, 570; 442 NW2d 622 (1989). However, the court stated that defendant's sentence was being imposed "pursuant to the sentencing guidelines." Thus, the articulation requirement was satisfied. *People v Lawson*, 195 Mich App 76, 77; 489 NW2d 147 (1992).

Affirmed.

/s/ Richard A. Bandstra  
/s/ Richard Allen Griffin  
/s/ Robert P. Young, Jr.