

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NICHOLAS E. WALKER,

Defendant-Appellant.

UNPUBLISHED
September 8, 1998

No. 199921
Recorder's Court
LC No. 96-001537

Before: Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529; MSA 28.797, and sentenced to five to fifteen years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The evidence presented by the prosecutor was sufficient to establish venue. The address of the location of the robbery, when combined with the testimony that the robbery occurred in the Brewster Home Project, that the victim reported the robbery to a Detroit police precinct, and that defendant was arrested by Detroit police officers shortly after the commission of the robbery in the vicinity of the location of the robbery, and with the fact that the only police officers that testified were Detroit police officers, gave rise to a reasonable inference that the robbery occurred in Detroit, Wayne County, Michigan. *People v Flaherty*, 165 Mich App 113, 119; 418 NW2d 695 (1987).

Viewing the testimony in a light most favorable to the prosecutor, a rational trier of fact could have found beyond a reasonable doubt that defendant committed an armed robbery. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), modified 441 Mich 1201 (1992); *People v Partridge*, 211 Mich App 239, 240; 535 NW2d 251 (1995); *People v Newcomb*, 190 Mich App 424, 430; 476 NW2d 749 (1991).

Defense counsel was not ineffective when he failed to challenge the sufficiency of the evidence of venue. Counsel was not required to raise a meritless challenge. *People v Gist*, 188 Mich App 610, 613; 470 NW2d 475 (1991).

Defendant has failed to overcome the presumption of proportionality that attends a sentence within the sentencing guidelines recommendation. *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994). Additionally, because defendant's sentence does not violate the principle of proportionality, the sentence is not cruel or unusual. *People v Williams (After Remand)*, 198 Mich App 537, 543; 499 NW2d 404 (1993).

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Myron H. Wahls

/s/ Mark J. Cavanagh