

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDDIE E. THOMAS,

Defendant-Appellant.

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UNPUBLISHED

March 30, 1999

No. 200910

Detroit Recorder's Court

LC No. 96-004301

Before: McDonald, P.J., and Jansen and Talbot, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of two counts of armed robbery, MCL 750.529; MSA 28.797, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2). The trial court found that the guidelines range was inadequate and sentenced defendant to concurrent terms of ten to twenty years' imprisonment for the armed robbery convictions and to two concurrent terms of two years' imprisonment for the felony-firearm convictions. Defendant appeals as of right. We affirm.

Defendant argues his sentences for the armed robbery convictions are disproportionate. We disagree. This Court reviews sentences for an abuse of discretion. *People v Williams*, 223 Mich App 409, 410-411; 566 NW2d 649 (1997).

The key test of the proportionality of a sentence is whether it reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). A departure from the recommended guidelines range indicates a possibility that a sentence may be disproportionate. *Id.* Trial judges may continue to depart from the guidelines when, in their judgment, the recommended range is disproportionate to the seriousness of the crime. *Id.* at 322. The court may properly consider factors already included in the guidelines calculation. *Id.* Departures are appropriate where the guidelines do not adequately account for factors that legitimately can be considered at sentencing. *People v Watkins*, 209 Mich App 1, 6; 530 NW2d 111 (1995).

Here, the trial court found that the guidelines range was inadequate primarily because of the predatory nature of the crime and the escalating severity of defendant's criminal behavior. These are

legitimate factors on which a court may base a departure from the guidelines recommendation. *Houston, supra*. We find the sentence the trial court imposed is proportionate to the circumstances surrounding the offense and the offender. The trial court did not abuse its discretion.

Affirmed.

/s/ Gary R. McDonald

/s/ Kathleen Jansen

/s/ Michael J. Talbot