

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRANCISCO JAVIER COLON,

Defendant-Appellant.

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UNPUBLISHED

August 3, 1999

No. 206913

Kent Circuit Court

LC No. 97-002766 FC

Before: Holbrook, Jr., P.J., and Murphy and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right from his jury trial conviction of voluntary manslaughter, MCL 750.321; MSA 28.553. Defendant was sentenced to a prison term of seven and one-half to fifteen years. We affirm.

Defendant's sole issue on appeal is that his sentence violates the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). Specifically, defendant asserts that the trial court abused its discretion when it departed from the sentencing guidelines. We disagree. "Provided permissible factors are considered, appellate review of sentencing determinations is limited to whether the sentencing court abused its discretion." *People v Fetterly*, 229 Mich App 511, 525; 585 NW2d 199 (1998). "A sentence constitutes an abuse of discretion if it violates the principle of proportionality by being disproportionate to the seriousness of the circumstances surrounding the offense and the offender." *People v Paquette*, 214 Mich App 336, 344-345; 543 NW2d 342 (1995). "The 'key test' of proportionality is not whether the sentence departs from or adheres to the . . . range [recommended by the sentencing guidelines], but whether it reflects the seriousness of the matter." *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995).

When sentencing defendant, the trial court stated that there were three reasons why it was departing from the guidelines: (1) because defendant stabbed victim six times;<sup>1</sup> (2) because defendant became a fugitive for ten years, causing significant grief to the victim's family; and (3) because defendant's decision to flee caused significant work and expense for the Michigan authorities. We conclude that it was legitimate for the trial court to consider these factors at sentencing, *People v Castillo*, 230 Mich App 442, 448; 584 NW2d 606 (1998), and that the sentence imposed does not

violate the principle of proportionality. Under the circumstances of this case, we do not believe the trial court abused its discretion in concluding that the sentencing guidelines did not sufficiently reflect the seriousness of the crime. *Id.* at 449.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ William B. Murphy

/s/ Michael J. Talbot

<sup>1</sup> We note that all but one of the stab wounds were to vital areas of the body. See *Paquette, supra* at 345-346.