

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KENDRICK HARRIS,

Defendant-Appellant.

UNPUBLISHED

December 14, 2001

No. 226725

Ingham Circuit Court

LC No. 99-075083-FH

Before: White, P.J., and Talbot and E.R. Post*, JJ.

MEMORANDUM.

Defendant appeals as of right his jury conviction for assault with intent to commit great bodily harm less than murder. MCL 750.84. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's conviction arises out of an assault on his former girlfriend. Defendant entered the victim's home and stabbed her multiple times in front of her three children. Defendant only ceased the attack after the victim appeared to be dead. On appeal, defendant argues that his five to ten year sentence in excess of the guidelines is disproportionate.

Under the legislative sentencing guidelines, this Court must first determine as a matter of law whether the trial court's stated reason for departure is objective and verifiable. *People v Babcock*, 244 Mich App 64, 78; 624 NW2d 479 (2000). Once that determination is made, review is limited to whether the trial court abused its discretion in concluding that the factor constituted a substantial and compelling reason to depart. *Id.* There is no proportionality review beyond the determination that a substantial and compelling reason supports the departure. *Id.*, 77.

The trial court did not abuse its discretion in finding that the extreme nature of the attack comprised a substantial and compelling reason for departing from the sentencing guidelines. The

* Circuit judge, sitting on the Court of Appeals by assignment.

reasons justifying departure are objective and verifiable, they are striking, and they are of considerable worth in deciding the length of the sentence. *Id.* at 75.

Affirmed.

/s/ Helene N. White
/s/ Michael J. Talbot
/s/ Edward R. Post