

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FERNANDO DEVON PAIGE,

Defendant-Appellant.

UNPUBLISHED

December 18, 2001

No. 226572

Washtenaw Circuit Court

LC No. 99-012795-FC

Before: Bandstra, C.J., and Fitzgerald and Gage, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of receiving or concealing stolen property worth at least \$ 20,000, MCL 750.535(2)(a), and fleeing and eluding a police officer, third degree, MCL 257.602a(3)(a). The trial court sentenced defendant to concurrent terms of three to ten years for the stolen property conviction, and two to five years for the fleeing and eluding count. Defendant appeals as of right. We affirm.

Defendant's appeal challenges only his sentences, first on the basis of their severity. Although the statutory guidelines apply to offenses committed on or after January 1, 1999, *People v Babcock*, 244 Mich App 64, 72; 624 NW2d 479 (2000), and the current offenses were committed on August 31, 1999, the crime of receiving or concealing stolen property worth at least \$20,000 was not included in the statutory guidelines because MCL 750.535(2)(a) likewise became effective on January 1, 1999. Consequently, we review the sentence for defendant's stolen property conviction for an abuse of discretion by the trial court, which occurs when the sentence imposed is disproportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990); *Babcock*, *supra* at 78.

In sentencing defendant, the trial court considered numerous appropriate factors. *People v Oliver*, 242 Mich App 92, 98; 617 NW2d 721 (2000). The court noted defendant's criminal history, which included several previous juvenile and adult convictions, as well as the fact that defendant committed the instant offenses approximately one month after being paroled from a sentence of incarceration imposed for a prior assault with intent to do great bodily harm less than murder conviction. The trial court also considered the dangerousness of the offense, which involved a lengthy police chase during which defendant exceeded speeds of 100 miles per hour and collided with three police vehicles. Defendant ultimately fled on foot, and was apprehended more than an hour later. In light of these circumstances, we cannot conclude that the trial court

abused its discretion in imposing a three-year minimum sentence for the stolen property conviction, which we find proportionate to the circumstances surrounding the instant crime and defendant's background.

We need not consider defendant's next argument that the trial court improperly scored statutory offense variable 19 in determining his sentence for fleeing and eluding, given our conclusion that the longer minimum sentence term the court imposed for the stolen property conviction qualifies as proportionate. *People v Sharp*, 192 Mich App 501, 506; 481 NW2d 773 (1992).

Affirmed.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Hilda R. Gage