

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HENRY A. COVINGTON,

Defendant-Appellant.

---

UNPUBLISHED

August 2, 2002

No. 232015

Wayne Circuit Court

LC No. 00-000162

Before: Fitzgerald, P.J., and Holbrook, Jr. and Griffin, JJ.

PER CURIAM.

Defendant was originally charged with second-degree murder, MCL 750.317, possession of a firearm during the commission of a felony, MCL 750.227b, and felon in possession of a firearm, MCL 750.224f. Following a jury trial, defendant was acquitted of the first two charges but convicted of the latter felon in possession charge. The trial court sentenced defendant as a second offender to a minimum term of nineteen months to a maximum term of five years, with 338 days of credit for time served. Defendant appeals as of right. We affirm.

The sole issue raised by defendant on appeal concerns the proportionality of his sentence. Citing *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990), defendant contends that although he had one previous drug-related felony conviction for which he was on lifetime probation at the time of the instant offense, he otherwise had completed 815 hours of community service for that offense, had an exemplary record of honorable discharge from the United States Marine Corps, had been consistently employed since 1995, graduated from high school in 1985 and was the father of three minor children, one of whom lived with him. Defendant maintains that given these circumstances, the trial court abused its discretion and violated the principle of proportionality when it failed to sentence him to the low end of the guidelines or to a probationary term.

However, under the legislative sentencing guidelines,<sup>1</sup> “[i]f a minimum sentence is within the appropriate guidelines sentencing range, the court of appeals shall affirm that sentence and shall not remand for resentencing absent an error in scoring the sentencing guidelines or

---

<sup>1</sup> The legislative sentencing guidelines apply to the present case because the instant offense was committed on or after January 1, 1999. MCL 769.34(1) and (2); *People v Hegwood*, 465 Mich 432, 438; 636 NW2d 127 (2001).

inaccurate information relied upon in determining the defendant's sentence." *People v Babcock*, 244 Mich App 64, 73; 624 NW2d 479 (2000), quoting MCL 769.34(10). This Court must therefore affirm sentences falling within the appropriate guidelines range. *Id.*

In the instant case, the guidelines set forth a minimum sentence range from five to twenty-three months. Because defendant's nineteen-month minimum sentence fell within this range, and defendant neither alleges nor does the record establish that the trial court relied on inaccurate information, the sentence was proper and appellate relief from the imposed sentence is foreclosed. MCL 769.34(10); *Babcock, supra*.

Affirmed.

/s/ E. Thomas Fitzgerald  
/s/ Donald E. Holbrook, Jr.  
/s/ Richard Allen Griffin