

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

CARRIE LYNNE HOFF, a/k/a CARRIE LYNNE
WIZ,

Defendant-Appellee.

UNPUBLISHED
February 24, 2005

No. 251411
Macomb Circuit Court
LC No. 02-003349-FH

Before: Fort Hood, P.J., and Griffin and Donofrio, JJ.

MEMORANDUM.

Plaintiff appeals as of right the sentence of five years' probation imposed on defendant's convictions of felonious assault, MCL 750.82, and second-degree retail fraud, second offense, MCL 750.356d. We affirm.

The applicable statutory sentencing guidelines established a minimum term range of five to twenty-three months.¹ The trial court sentenced defendant to serve a term of five years' probation, and characterized the sentence as a departure from the guidelines.

A trial court must impose a sentence within the sentencing guidelines, unless it finds that substantial and compelling reasons exist to depart from the guidelines. The reason for the departure must be articulated by the trial court on the record. MCL 769.34(3).

The sentence imposed by the trial court did not constitute a departure from the guidelines. Under the statutory sentencing guidelines act, if the upper limit of the established minimum sentence range exceeds eighteen months and the lower limit is twelve months or less, the sentencing court must, absent a departure, sentence the defendant to imprisonment with a minimum term within that range, or to an intermediate sanction which may include a term of imprisonment of not more than twelve months. MCL 769.34(4)(d). An intermediate sanction includes a term of probation. MCL 769.31(b)(ii). The imposition of an intermediate sanction of a term of probation, rather than a term of imprisonment, was specifically authorized by statute

¹ Plaintiff sought enhancement of defendant's sentence pursuant to MCL 769.12.

under the circumstances presented by this case. Defendant was properly sentenced. *People v Martin*, 257 Mich App 457, 459-461; 668 NW2d 397 (2003).

Affirmed.

/s/ Karen M. Fort Hood
/s/ Richard Allen Griffin
/s/ Pat M. Donofrio