STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN JOE WILLIAM STONE,

Defendant-Appellant.

UNPUBLISHED
February 28, 1997

No. 180091
Muskegon Circuit
LC No. 94-037006-FC

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KEVIN JOE WILLIAM STONE,

Defendant-Appellant.

No. 180108
Muskegon Circuit
LC No. 94-037005-FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded guilty in lower court case no. 94-037005-FC to first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2), and was sentenced to thirteen to thirty-five years'

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*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.
**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

imprisonment. Defendant pleaded nolo contendere in lower court case no. 94-037006-FH to second-degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3), and was sentenced to a concurrent term of three to fifteen years' imprisonment. Defendant filed separate appeals as of right, which were consolidated for our review. On remand from this Court during the pendency of this appeal, the circuit court denied defendant's motion to withdraw his plea pursuant to a June 27, 1995 order providing for the affirmation of the plea if, after an appeal of the probate court's waiver decision, that decision was upheld. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

We find no error in the probate court's determination that the prosecuting attorney established by a preponderance of the evidence that the best interests of defendant and the public would be served by a waiver of defendant to the circuit court. Further, the probate court's findings regarding defendant's dangerousness, if released at the age of twenty-one, were based on substantial evidence and a thorough investigation. MCR 5.950(B)(2) and (C); MCL 712A.4(4); MSA 27.3178(598.4)(4); *People v Dunbar*, 423 Mich 380; 377 NW2d 262 (1985); *People v Fowler*, 193 Mich App 358, 363; 483 NW2d 626 (1992). Therefore, the circuit court did not err in upholding the probate court's waiver decision and, pursuant to the June 27, 1995 order, denying the motion to withdraw the plea.

With regard to defendant's challenge to the length of his sentence for the CSC I conviction, we hold that the sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Merriweather*, 447 Mich 799, 806; 527 NW2d 460 (1994); *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Dukes*, 189 Mich App 262, 266; 471 NW2d 651 (1991).

Affirmed.

/s/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar