

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL VINCENT DOUGHTY,

Defendant-Appellant.

UNPUBLISHED
February 28, 1997

No. 185448
Macomb Circuit Court
LC Nos. 93-3128-FH
93-3129-FH

Before: Hood, P.J., and Saad and T.S. Eveland,* JJ.

MEMORANDUM.

Although originally charged with three counts of First-Degree Criminal Sexual Conduct, MCL 750.520(B)(1)(a); MSA 28.788(B)(1)(a), and one count of Second-Degree Criminal Sexual Conduct, MCL 750.520(C)(1)(a); MSA 28.788(C)(1)(a), in two separate cases (i.e. a total of eight counts), defendant pleaded nolo contendere to two counts of first degree CSC. He received two sentences of ten to twenty years, to be served currently. Defendant now seeks a remand to withdraw his pleas, and he argues that his sentences violate the principle of proportionality. We affirm the sentences.

Defendant argues that the pleas he entered are invalid because he was under the influence of the anti-depressant drug, Prozac, and as such, he was incompetent to plead. Defendant seeks a remand so that he may withdraw his pleas. However, defendant did not move in the trial court to withdraw his plea, nor did he raise this claim in a timely manner before this Court. Therefore the claim is not properly preserved for our review. *People v Corteway*, 212 Mich App 442, 447; 538 NW2d 60 (1995). In any event, we note that, on the date of his pleas, defendant specifically denied being under the influence of any medication, and there is no record evidence that he was taking that medication on that date.

Defendant also argues that his sentences violated the principle of proportionality. Defendant's sentences of ten to twenty years on each offense were within the guidelines ranges of five to ten years,

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

and therefore the sentences are presumptively proportionate. *People v Fisher*, 442 Mich 560, 582; 503 NW2d 50 (1993). Because defendant has failed to present this Court with any compelling argument to overcome this presumption, we affirm. *Id.*

Affirmed.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Thomas S. Eveland