

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

NANCY JO LOWNSBERRY,

Defendant-Appellant.

UNPUBLISHED

February 28, 1997

No. 189059

Cheboygan Circuit Court

LC No. 95-001305-FH

Before: Murphy, P.J., and Markey and A.A. Monton,* JJ.

PER CURIAM.

Defendant pleaded guilty to attempted third-degree criminal sexual conduct, MCL 750.520d(1)(a); MSA 28.788(4)(1)(a), MCL 750.92; MSA 28.287, in exchange for the dismissal of two counts of third-degree CSC. The trial court sentenced defendant to serve one to five years' imprisonment and ordered defendant to pay for the victim's professional counseling as well as \$1,000.00 in fines. Defendant appeals as of right from her sentence, which she asserts is disproportionate. We affirm.

In order to preserve a challenge to the proportionality of her sentence, defendant must submit a copy of the presentence investigation report to this Court. Absent the report, this Court will deem the issue waived. MCR 7.212(C)(7); *People v Rodriguez*, 212 Mich App 351, 355; 538 NW2d 42 (1995); *People v Oswald*, 208 Mich App 444, 446; 528 NW2d 782 (1995). In the case at bar, defendant failed to provide a copy of the PSIR to us, so her challenge to her sentence is waived. *Rodriguez, supra; Oswald, supra.*

Nevertheless, defendant's sentence fell within the sentencing guidelines range and is, therefore, presumptively valid. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Spicer*, 216 Mich App 270, 276; 548 NW2d 245 (1996). Also, defendant's plea involved the dismissal of two greater charges, which the trial court could consider at sentencing. *People v Brzezinski (After Remand)*, 196 Mich App 253, 255-256; 492 NW2d 781 (1992); *People v Duprey*, 186 Mich App 313, 318; 463 NW2d 240 (1990). Accordingly, we believe that defendant's

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

sentence is proportionate to the offense and the offender, *People v Milbourn*, 435 Mich 630, 635-636, 654; 461 NW2d 1 (1990), and the sentence did not constitute an abuse of discretion.

Affirmed.

/s/William B. Murphy

/s/ Jane E. Markey

/s/ Anthony A. Monton