

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAUL NICHOLAS PROIMOS,

Defendant-Appellant.

UNPUBLISHED

March 14, 1997

No. 184322

Macomb Circuit

LC No. 94-001114

Before: Wahls, P.J., and Gage and W.J. Nykamp,* JJ.

PER CURIAM.

Defendant pleaded guilty to one count of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). A second charged count of the same offense was dismissed pursuant to a plea agreement. Defendant was sentenced to three to fifteen years' imprisonment. He appeals as of right, and we affirm.

Defendant first argues that the trial court abused its discretion in sentencing him at the highest end of the sentencing guidelines range. Defendant cites parole board statistics from 1992 through 1993 that indicate the board voted to continue incarceration for criminal sexual conduct offenders at a higher rate than for other assaultive offenders despite, according to defendant, their lower recidivism rates. He argues that because the trial court did not consider the difficulty he will face in obtaining parole, along with other mitigating factors, his sentence is disproportionate. We disagree.

In determining whether a minimum sentence falls within the guidelines range, the sentencing court should not consider the effect of parole eligibility on the sentence. *People v Shell*, 200 Mich App 160, 161; 503 NW2d 711 (1993). Defendant's sentence is within the guidelines' recommended minimum sentencing range of twelve to thirty-six months and is therefore presumptively proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Moreover, some of the factors cited as mitigating by defendant, such as his employment record and lack of criminal history, are not unusual circumstances that would overcome that presumption. *Id.* It was permissible for the sentencing court to consider the effect of defendant's offense on the young victim. *People v Girardin*, 165 Mich App 264, 266; 418 NW2d 453 (1987). We have reviewed the record and are satisfied that defendant's

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

three-year minimum sentence reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995).

Defendant also argues that his presentence report contains factual assertions relating to the offense that were not part of his guilty plea. Particularly, he notes that he admitted to touching the nine-year-old victim on her inner thigh but did not admit to touching her vagina. However, defendant's attorney indicated to the sentencing judge that defendant had read the presentence report and that its contents were "accurate and correct." Because defendant did not challenge the accuracy of the report at or before sentencing, this issue is not preserved for our review. MCR 6.429(C); *People v Bailey (On Remand)*, 218 Mich App 645, 647; 554 NW2d 391 (1996).

Affirmed.

/s/ Myron H. Wahls

/s/ Hilda R. Gage

/s/ Wesley J. Nykamp