

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOSEPH DAVID REZNY,

Defendant-Appellant.

UNPUBLISHED

April 1, 1997

No. 187908

Muskegon Circuit Court

LC No. 95-038164-FH

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

MEMORANDUM.

Defendant pleaded guilty to delivery of less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and was sentenced to three to twenty years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The sentencing court's scoring of five points for Offense Variable 25 is supported by adequate evidence on the record. *People v Hernandez*, 443 Mich 1, 16; 503 NW2d 629 (1993); *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). We decline to address the merits of defendant's scoring challenge to Offense Variable 8. Even if we were to conclude that the sentencing court abused its discretion in scoring that variable, the scoring error would have no effect on the recommended guidelines' range. Under such circumstances, we need not address the challenge. *People v Jarvi*, 216 Mich App 161, 164; 548 NW2d 676 (1996); *People v Johnson*, 202 Mich App 281, 290; 508 NW2d 509 (1993).

*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.

Defendant's three-year minimum sentence falls within the guidelines' range and, therefore, is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Dukes*, 189 Mich App 262, 266; 471 NW2d 651 (1991). Defendant has failed to present any unusual circumstances to rebut the presumption. *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992). On the record before us, we find that the sentencing court did not abuse its discretion when it imposed this sentence. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar