

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFREY WILLIAM SMITH,

Defendant-Appellant.

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UNPUBLISHED

July 7, 2000

No. 220411

Ottawa Circuit Court

LC No. 98-022421-FH

Before: Jansen, P. J., and Hood, and Saad, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction on two counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's convictions arise out of sexual contact with his then twelve-year-old daughter and her friend. Defendant was convicted as charged, and sentenced to five to fifteen years' imprisonment. The sentencing guideline range was three to eight years. Defendant argues that his sentence is disproportionate.

This Court will review a defendant's sentence for abuse of discretion. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999). A sentence constitutes an abuse of discretion if it violates the principle of proportionality. *Id.* The principle of proportionality requires that sentences must be proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

A sentence within the guidelines range is presumed proportionate. *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). Where a sentence is within the guidelines, defendant must demonstrate unusual circumstances that would render the sentence disproportionate. *Id.*

Defendant has failed to show unusual circumstances that would render the sentence disproportionate. While defendant may have had negative experiences in his life, he gave no explanation how those experiences related to his sexual contact with two twelve-year-old girls. As the trial court

found, defendant had little insight into his actions. The sentence within the guidelines was not an abuse of discretion.

Affirmed.

/s/ Kathleen Jansen

/s/ Harold Hood

/s/ Henry William Saad