

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GUY MITCHELL BUTLER,

Defendant-Appellant.

UNPUBLISHED

August 11, 2000

No. 218606

Hillsdale Circuit Court

LC No. 98-228193

Before: Murphy, P.J., and Kelly and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right from his sentence of 15 to 22½ years in prison imposed on his convictions of criminal sexual conduct in the second degree, MCL 750.520c; MSA 28.788(3), and habitual offender, second offense, MCL 769.10; MSA 28.1082. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that his minimum term is disproportionate. We disagree and affirm. The sentencing guidelines do not apply to habitual offenders, and are not to be considered when fashioning an habitual offender sentence. *People v Williams*, 223 Mich App 409, 412-413; 566 NW2d 649 (1997). The standard of review for a sentence imposed on an habitual offender is abuse of discretion. If an habitual offender's underlying criminal history demonstrates that he is unable to conform his conduct to the law, a sentence within the statutory limits does not constitute an abuse of discretion. *People v Hansford (After Remand)*, 454 Mich 320, 323-324, 326; 562 NW2d 460 (1997). Defendant had an extensive criminal record prior to committing the underlying offense, in which the victim was a seven-year-old child. Defendant acknowledges the wrongfulness of his behavior, but nevertheless attempts to place some blame on the victim, whom he describes as sexually precocious. Defendant's sentence is within statutory limits, MCL 769.10(1)(a); MSA 28.1082(1)(a), and does not constitute an abuse of discretion under the circumstances.

Affirmed.

/s/ William B. Murphy

/s/ Michael J. Kelly

/s/ Michael J. Talbot