

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN EDWARD CARPENTER,

Defendant-Appellant.

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UNPUBLISHED

February 13, 2001

No. 219186

Cheboygan Circuit Court

LC No. 98-001917-FH

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JOHN EDWARD CARPENTER,

Defendant-Appellee.

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No. 219800

Cheboygan Circuit Court

LC No. 98-001917-FH

Before: Wilder, P.J., and Smolenski and Whitbeck, JJ.

SMOLENSKI, J. (*concurring in part and dissenting in part*).

In Docket No. 219186, I concur with the majority opinion. In Docket No. 219800, I respectfully dissent. I would hold that the trial court abused its discretion by imposing a disproportionately lenient sentence and I would therefore vacate defendant's sentence and remand for resentencing.

After a jury trial, defendant was convicted of two counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). The charges arose out of numerous sexual contacts that defendant initiated with a young boy who was between five and seven years old when the incidents occurred. Additionally, defendant was previously convicted of a similar offense involving the victim's seven year old sister, regarding acts of sexual molestation that occurred during the same time period. The sentencing guidelines for the instant offense provided for a sentence range of 12-36 months' imprisonment. The trial court departed downward from the guidelines, imposing a sentence of only 270 days in the county jail. I do not believe that the

factors cited by the trial court justify the lenient sentence imposed, given the serious nature of this criminal sexual conduct offense involving a young child.

/s/ Michael R. Smolenski