

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ERIC DUMAINE,

Defendant-Appellant.

UNPUBLISHED

April 17, 2001

No. 227648

Mason Circuit Court

LC No. 99-014599-FC

Before: Hoekstra, P.J., and Whitbeck and Cooper, JJ.

MEMORANDUM.

Pursuant to a plea agreement, defendant pleaded guilty to two counts of second-degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3), involving his five-year-old and seven-year-old adopted daughters. Under the terms of the agreement, charges of first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2), and third-degree criminal sexual conduct, MCL 750.520d; MSA 28.788(4), were dismissed. Defendant was sentenced within the judicial sentencing guidelines range to two concurrent prison terms of four to fifteen years, and ordered to pay \$436 actual restitution with “additional amounts . . . held in reserve in case there are future medical and/or slash counseling bills.” We affirm.

Defendant raises two issues concerning the trial court’s order of restitution. However, because defendant did not challenge the ordered restitution below or ask for an evidentiary hearing, we decline to address these issues. *People v Gahan*, 456 Mich 264, 276; 571 NW2d 503 (1997); *People v Griffis*, 218 Mich App 95, 103-104; 553 NW2d 642 (1996).

Defendant also argues that his sentence is disproportionate. We disagree. Defendant’s sentence is near the lower end of the 36 to 84 months judicial guidelines range. Defendant abused his role as an adoptive father to the young child victims in this case, both of whom have suffered as a result of his acts. Although defendant has no prior criminal record or substance abuse history, and has the support of his mother, a good work record and the support of his employer, he has not overcome the presumption that his guidelines sentence is proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997).

Affirmed.

/s/ Joel P. Hoekstra
/s/ William C. Whitbeck
/s/ Jessica R. Cooper