

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN KOLARICH,

Defendant-Appellant.

UNPUBLISHED

June 29, 2001

No. 222836

Macomb Circuit Court

LC No. 98-003614-FC

Before: Jansen, P.J., and Zahra and Owens, JJ.

PER CURIAM.

Defendant appeals as of right from a jury conviction of two counts of first-degree criminal sexual conduct, MCL 750.520b(1)(f); MSA 28.788(2)(1)(f), for which he was sentenced to concurrent terms of twenty-five to fifty years in prison. We affirm.

Defendant first contends that the trial court abused its discretion in admitting evidence of other sexual acts between defendant and the complainant. Because defense counsel stipulated that the evidence was admissible, there was no error. *People v Carter*, 462 Mich 206, 216, 219; 612 NW2d 144 (2000); *People v McCray*, 210 Mich App 9, 14; 533 NW2d 359 (1995).

Defendant next contends that he is entitled to resentencing because his sentence was affected by inaccurate information in the presentence report. Because defendant acknowledged at sentencing that the report was accurate, the issue has not been preserved. *People v Bailey (On Remand)*, 218 Mich App 645, 647; 554 NW2d 391 (1996).

Defendant also contends that he is entitled to resentencing because his sentence was disproportionate. We disagree. The evidence at trial suggested defendant began arguing with the fifteen-year-old victim, his then girlfriend, while the two were baby-sitting for an acquaintance. The victim testified that defendant struck her several times and forcefully removed her clothing. The evidence at trial corroborated that the victim had been beaten. Defendant then pulled the victim into a bathroom and forced her to engage in fellatio and sexual intercourse. Defendant's minimum sentence was within the guidelines and thus is presumptively proportionate. *People v Johnson*, 202 Mich App 281, 290; 508 NW2d 509 (1993). Defendant has not shown any unusual circumstances to rebut that presumption. *People v Piotrowski*, 211 Mich App 527, 532-533; 536 NW2d 293 (1995).

Affirmed.

/s/ Kathleen Jansen
/s/ Brian K. Zahra
/s/ Donald S. Owens