

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES PAUL BUTLER,

Defendant-Appellant.

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UNPUBLISHED

August 6, 2002

No. 231247

Oakland Circuit Court

LC No. 98-157910-FC

Before: Murray, P.J., and Sawyer and Zahra, JJ.

MEMORANDUM.

Defendant appeals as of right from his November 29, 2000 resentencing for being a sexually delinquent person. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On July 20, 1998, defendant was convicted by a jury of one count of indecent exposure, MCL 750.335a, and pleaded guilty to one count of being a sexually delinquent person, MCL 750.10a. Defendant was initially sentenced to one year to life in prison. Defendant appealed his conviction and sentence as of right in Docket No. 214174. This Court affirmed his conviction, but vacated the sentence as inconsistent with the statutory sentencing scheme embodied in MCL 750.335a and remanded for resentencing. On remand, the trial court resentenced defendant to one day to life in prison. Defendant again appeals as of right.

This Court reviews sentencing decisions for abuse of discretion. *People v Fetterley*, 229 Mich App 511, 525; 583 NW2d 199 (1998). A sentence is an abuse of the trial court's discretion if it violates the principle of proportionality, which requires that a sentence 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). Defendant argues that the sentence violates the principle of proportionality as set forth in *Milbourn*, *supra*, because considering his progress between the time of the conviction and the time of resentencing, the court should have sentenced him to one year in jail rather than one day to life in prison.

In this Court's previous opinion in this case, we found that defendant's prior sentence of one year to life was proportionate, even if invalid, in light of defendant's extensive criminal history. Because a sentence of one day to life is somewhat less severe than but comparable to the sentence of one year to life that this Court previously found to be proportionate, the sentence must be affirmed under the law of the case doctrine. *Grievance Administrator v Lopatin*, 462

Mich 235, 259-260; 612 NW2d 120 (2000); *Johnson v White*, 430 Mich 47, 53; 420 NW2d 87 (1988). Consequently, we conclude that defendant has not established that the court abused its discretion in imposing sentence.

Affirmed.

/s/ Christopher M. Murray  
/s/ David H. Sawyer  
/s/ Brian K. Zahra