

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICARDO FELIX VEGA, JR.,

Defendant-Appellant.

---

UNPUBLISHED

November 23, 2004

No. 249578

Ingham Circuit Court

LC No. 01-000717-FC

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

COOPER, P.J. (*concurring*).

I agree with the majority and vote to affirm defendant's convictions. I write separately, however, to express my concern with the defendant's disproportionately low sentence for this serious offense. Defendant was convicted of raping his seven-year-old biological daughter. The complainant's mother indicated in the presentence investigation report that defendant's sexual abuse of his daughter could have begun when she was as young as two. Although the prosecution recommended a lengthy sentence, the sentencing judge departed downward from the recommended minimum sentencing guidelines range and sentenced defendant to a three-and-a-half year minimum sentence. A sentencing court may only depart from the minimum sentencing guidelines range based on substantial and compelling reasons.<sup>1</sup> This departure was taken after a short sentencing hearing and was based in great part on the desire of the complainant's mother that the defendant receive a shorter sentence because the seven-year-old child still loves her father and wants to continue to see him. Although the prosecution has not cross-appealed from this sentence, I note that the sentencing court's departure was highly inappropriate as the reasons stated were neither substantial nor even minimally compelling.

/s/ Jessica R. Cooper

---

<sup>1</sup> MCL 769.34(3); *People v Babcock*, 469 Mich 247, 256-258; 666 NW2d 231 (2003).