

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES LAUREL PECK,

Defendant-Appellant.

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UNPUBLISHED

October 19, 2010

No. 293543

Wayne Circuit Court

LC No. 09-001309-FH

Before: BORRELLO, P.J., and CAVANAGH and OWENS, JJ.

PER CURIAM.

Defendant was convicted by a jury of three counts of child sexually abusive activity, MCL 750.145c(2), three counts of using a computer to commit a crime, MCL 750.145d(2)(f), and one count of possession of child sexually abusive material, MCL 750.145c(4). He was sentenced to three days in jail for the possession of child sexually abusive material conviction and concurrent prison terms of 6 to 20 years each for the child sexually abusive activity convictions, with those sentences to be served consecutive to concurrent prison terms of 6 to 20 years each for the unlawful use of a computer convictions. He appeals as of right, challenging the trial court's decision to impose consecutive sentences. We affirm.

Consecutive sentences may not be imposed absent statutory authority. *People v Alvarado*, 192 Mich App 718, 720; 481 NW2d 822 (1992). Whether consecutive sentences are authorized by a particular statute is a question of law that is reviewed de novo on appeal. *People v Lee*, 233 Mich App 403, 405; 592 NW2d 779 (1999). Here, defendant does not dispute that the trial court was authorized to impose consecutive sentences pursuant to MCL 750.145d(3). Rather, he argues that the imposition of consecutive sentences rendered his sentences disproportionate. We disagree.

The imposition of a sentence is generally reviewed for an abuse of discretion. *People v Underwood*, 278 Mich App 334, 337; 750 NW2d 612 (2008). "A sentencing court abuses its discretion when it violates the principle of proportionality." *People v Rockey*, 237 Mich App 74, 79; 601 NW2d 887 (1999). The general rule is that a sentence must be proportionate to the circumstances of the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). The purpose of the sentencing guidelines is to determine a proportionate sentence. *People v Smith*, 482 Mich 292, 305; 754 NW2d 284 (2008). Proportionality is an inherent aspect of any sentence imposed within the legislative guidelines, because the guidelines are designed to take into account the severity of the offense and the defendant's criminal history.

*People v Babcock*, 469 Mich 247, 263-264; 666 NW2d 231 (2003). “[T]he consecutive nature of a defendant’s sentences is irrelevant to the determination whether his sentences are” proportionate. *People v Green*, 228 Mich App 684, 698; 580 NW2d 444 (1998). “Where a defendant receives consecutive sentences, this Court may not review the length of the sentences together to decide if the principle of proportionality was violated, but each sentence must be reviewed separately.” *People v Feazel*, 219 Mich App 618, 626; 558 NW2d 219 (1996), rev’d on other grounds 456 Mich 855 (1997).

In this case, defendant’s minimum sentence of six years for each conviction is within the appropriate guidelines range of 45 to 75 months. A sentence that falls within the guidelines range is presumptively proportionate. *People v Powell*, 278 Mich App 318, 323; 750 NW2d 607 (2008). Because a sentence within the guidelines range must be affirmed absent a claim that the guidelines were not properly scored or that the trial court relied on inaccurate information, MCL 769.34(10),<sup>1</sup> “this Court may not consider challenges to a sentence based exclusively on proportionality if the sentence falls within the guidelines.” *People v Pratt*, 254 Mich App 425, 429-430; 656 NW2d 866 (2002). Therefore, defendant is not entitled to sentencing relief.

Affirmed.

/s/ Stephen L. Borrello  
/s/ Mark J. Cavanagh  
/s/ Donald S. Owens

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<sup>1</sup> Defendant does not argue that the guidelines were incorrectly scored or that the trial court relied on inaccurate information.