

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BURKE BARDWELL,

Defendant-Appellant.

UNPUBLISHED

January 24, 1997

No. 195010

Detroit Recorder's Court

LC No. 93-013624-01

Before: M.J. Kelly, P.J., and Saad and H.A. Beach,* JJ.

MEMORANDUM.

Defendant was charged with six counts of first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2), and one count of felony firearm, MCL 750.227b; MSA 28.424(2), in connection with multiple penetrations of a twelve-year old girl. He pleaded guilty to two counts of CSC, first degree, under an agreement that he would be sentenced to a minimum term falling between eight to twenty years. He was in fact, sentenced to a term of ten to twenty years, and he now appeals, arguing that this sentence violates the principle of proportionality, under *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Defendant has appealed previously on a scoring issue, and he has been resentenced. Defendant's current sentence was within the recommended guidelines range of ten to twenty-five years, and is thus presumptively proportionate. *People v Fisher*, 442 Mich 560, 582; 503 NW2d 50 (1993). Because defendant has failed to present this Court with any compelling argument to overcome this presumption of proportionality, we affirm. *Id.*

Affirmed.

* Circuit judge, sitting on the Court of Appeals by assignment.

/s/ Michael J. Kelly
/s/ Henry William Saad
/s/ Harry A. Beach