

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFERY PAUL JONES,

Defendant-Appellant.

UNPUBLISHED

October 3, 1997

No. 186896

Grand Traverse Circuit Court

LC No. 94-006689 FH

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

Defendant was originally charged with indecent exposure, a misdemeanor punishable by a maximum of one year of incarceration or a \$500 fine, cognizable only in a court of record. MCL 750.335a; MSA 28.567(1). However, the information specified that the charges were brought under the provisions of the statute which enhance the punishment for sexually delinquent persons, as defined in MCL 750.10a; MSA 28.200(1). If adjudicated a sexually delinquent person, defendant would have been subject to a mandatory sentence of incarceration of one day to life. *People v Helzer*, 404 Mich 410; 273 NW2d 44 (1978).

However, defendant, pursuant to a plea bargain, exchanged the misdemeanor charge and potential enhanced penalty for a felony charge of gross indecency, MCL 750.338b; MSA 28.570(2), with allegations of sexual delinquency to be dismissed. On this appeal of right, defendant contends that his ultimate sentence of 40 to 60 months' imprisonment is disproportionate to the offense and the offender.

This argument simply overlooks the fact that, pursuant to a plea bargain, defendant greatly reduced his exposure to possible incarceration. Accordingly, the trial court did not err or abuse its sentencing discretion in deviating from the sentence guidelines on this basis. *People v Duprey*, 186 Mich App 313; 463 NW2d 240 (1990).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad