

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALLEN A. WILLIAMS,

Defendant-Appellant.

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UNPUBLISHED  
September 8, 1998

No. 198883  
Oakland Circuit Court  
LC No. 96-145882 FH

Before: Donald E. Holbrook, Jr., P.J., and Wahls and Cavanagh, JJ.

MEMORANDUM.

Defendant pleaded guilty to three counts of third-degree criminal sexual conduct, MCL 750.520d(1)(a); MSA 28.788(4)(1)(a), and was sentenced to three concurrent terms of ten to fifteen years' imprisonment. Defendant appeals as of right. We affirm.

Defendant has failed to overcome the presumption that a sentence within the guidelines is proportionate to the offense and the offender, particularly in light of the psychological injury suffered by the victim. *In re Dana Jenkins*, 438 Mich 364, 376; 475 NW2d 279 (1991); *People v Piotrowski*, 211 Mich App 527, 532-533; 536 NW2d 293 (1995); *People Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994). Moreover, defendant's sentences do not constitute cruel or unusual punishment. *People v Williams (After Remand)*, 198 Mich App 537, 543; 499 NW2d 404 (1993).

We reject defendant's claim that the trial court failed to consider the factors enumerated in MCL 780.767(1); MSA 28.1287(767)(1), before it ordered defendant to pay restitution in the amount of \$4,243.08. The trial court prefaced its sentencing articulation by indicating that it had "carefully reviewed" the presentence investigation report [PSIR]. The PSIR set forth the amount of restitution sought, the fact that defendant was unmarried and childless and the fact that defendant had assets valued significantly in excess of the amount of restitution ordered. Defendant failed to challenge the accuracy of any of this information. Accordingly, by considering the contents of the PSIR before ordering restitution, the trial court can be said to have considered defendant's financial resources and the financial needs of defendant and his dependents. *People v Grant*, 455 Mich 221, 235-237, 243-244; 565

NW2d 389 (1997). Because defendant failed to create an actual dispute at sentencing concerning his ability to pay restitution, the trial court was not required to make findings on the record. *Id.* at 243-244.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Myron H. Wahls

/s/ Mark J. Cavanagh