

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PETER R. SYLVESTER,

Defendant-Appellant.

UNPUBLISHED

September 22, 1998

No. 203727

Jackson Circuit Court

LC No. 97-079056 FC

Before: Hood, P.J., and Griffin and O'Connell, JJ.

MEMORANDUM.

Defendant pleaded guilty to second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), and was sentenced to seven to fifteen years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

Defendant has failed to advance a cognizable claim on appeal where the victim's preliminary examination testimony established a factual predicate for the scoring of Offense Variable 12, and where defendant's sentence is proportionate to the offense and offender. *People v Mitchell*, 454 Mich 145, 177; 560 NW2d 600 (1997); *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994).

Affirmed.

/s/ Harold Hood

/s/ Richard Allen Griffin

/s/ Peter D. O'Connell