

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES ALBERT GIBSON,

Defendant-Appellant.

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UNPUBLISHED  
October 30, 1998

No. 201873  
Recorder's Court  
LC No. 96-502114

Before: Young, Jr., P.J., and Wahls and Jansen, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction for involuntary manslaughter, MCL 750.321; MSA 28.553, entered after a bench trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was found guilty in the death of his step-daughter, who fell off of the roof of a van defendant was driving. The court found that defendant was grossly negligent in allowing an unsecured child to ride on the top of a van. The sentencing guidelines range was scored at 24 to 84 months. At sentencing, the trial court found that defendant acted in willful disregard of the child's safety. Defendant showed no visible signs of remorse, left the scene of the accident, and failed to pay for the child's burial although he had collected burial insurance proceeds. The court sentenced defendant to 2<sup>1</sup>/<sub>2</sub> to 15 years' imprisonment. On appeal, defendant argues that his sentence is disproportionate.

A sentence within the guidelines range is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 751 (1997). A defendant has the burden of presenting unusual circumstances which would overcome that presumption. *Id.*; *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Factors such as employment, lack of criminal history, and minimum culpability are not unusual circumstances that would overcome the presumption. *Id.*

Defendant has failed to identify any unusual circumstances that would require a departure from the guidelines. Defendant raises the same circumstances that this Court found insufficient to challenge

the sentence in *Daniel*. Defendant's sentence was at the low end of the guidelines range. There is no showing that it was disproportionate to the offense or the offender. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Myron H. Wahls

/s/ Kathleen Jansen