

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WAYNE JAY EATON,

Defendant-Appellant.

UNPUBLISHED

November 6, 1998

No. 202656

Genesee Circuit Court

LC No. 97-000080 FH

Before: Markman, P.J., and Bandstra and J.F. Kowalski*, JJ.

MEMORANDUM.

Defendant appeals as of right his guilty plea based conviction for second degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The charge against defendant arose out of the long term sexual abuse of his stepdaughter. In the plea proceeding, defendant admitted eleven instances of vaginal penetration of complainant. The presentence report indicated that sexual contact began when complainant was seven years old and continued until she was fourteen. Defendant had no prior record, and the sentencing guidelines' range was twenty-four to sixty months. The trial court sentenced defendant to five to fifteen years' imprisonment. On appeal, defendant argues that his sentence is disproportionate.

A sentence within the guidelines range is presumptively proportionate. *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997). Defendant has the burden of presenting unusual circumstances that would overcome the presumption of proportionality. *Id.*; *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). Factors cited by defendant, employment and lack of criminal history, are not unusual circumstances that would overcome the presumption. *Daniel, supra*. The trial court did not abuse its discretion in rendering sentence.

We affirm.

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

/s/ Stephen J. Markman

/s/ Richard A. Bandstra

/s/ John F. Kowalski