

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND LATURNO,

Defendant-Appellant.

UNPUBLISHED

November 30, 1999

No. 219012

St. Clair Circuit Court

LC No. 98-004107 FC

Before: Jansen, P.J., and Hoekstra and J.R. Cooper*, JJ.

MEMORANDUM.

Defendant appeals as of right from his sentences for his plea-based convictions of one count of criminal sexual conduct in the first degree (CSC I), MCL 750.520b; MSA 28.788(2), and one count of criminal sexual conduct in the third degree (CSC III), MCL 750.520d; MSA 28.788(4). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded guilty in return for dismissal of five other charges of CSC I. The victim was his daughter. At the plea hearing, defendant admitted to committing acts involving penile and digital penetration, and other sexual contact. The trial court sentenced defendant to concurrent prison terms of ten to twenty years and eight to fifteen years, with credit for two days, for the convictions of CSC I and CSC III, respectively. The minimum term of ten years for the conviction of CSC I, the more serious offense, was within the guidelines. In imposing sentence, the court remarked that defendant's positive factors did not outweigh the psychological damage his actions had done to the victim.

Defendant argues that his sentence is disproportionate and was not individualized. In particular, defendant asserts that the trial court failed to consider his lack of a prior record, his steady employment history, and his current poor health. We disagree and affirm. Sentence length is reviewed pursuant to the principle of proportionality. A sentence must be "proportionate to the seriousness of the circumstances surrounding the offense and the offender." *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). The key test of the proportionality of a sentence is whether it reflects the

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

seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). Defendant's minimum term of ten years was within the guidelines, and thus is presumed to be proportionate. *People v Hogan*, 225 Mich App 431, 437; 571 NW2d 737 (1997). The court's acknowledgment of the guidelines and imposition of a sentence within the guidelines satisfied the requirement that the court articulate its reasons for imposing sentence. *People v Bailey (On Remand)*, 218 Mich App 645, 646-647; 554 NW2d 391 (1996). The evidence showed that defendant repeatedly engaged in forced penetration of and contact with his daughter. The victim indicated that defendant had threatened to kill her if she told anyone about his actions. The factors cited by defendant, i.e., his lack of a prior record, his steady work history, and his poor health, do not overcome the presumption that his minimum term of ten years is proportionate. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994).

Affirmed.

/s/ Kathleen Jansen

/s/ Joel P. Hoekstra

/s/ Jessica R. Cooper