

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RAYMOND EUGENE CHASTAIN,

Defendant-Appellant.

UNPUBLISHED

April 21, 2000

No. 216724

Muskegon Circuit Court

98-042009-FC

Before: Meter, P.J., and Fitzgerald and O'Connell, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of first-degree criminal sexual conduct, MCL 750.520b(1)(b); MSA 28.788(2)(1)(b), and was sentenced as an habitual offender, fourth offense, MCL 769.12; MSA 28.1084, to twenty to thirty-five years' imprisonment. Defendant appeals as of right. We affirm.

Defendant's sole argument on appeal is that the sentence imposed is disproportionate. We disagree. As a fourth felony offender, defendant was subject to a possible penalty of life in prison. MCL 769.12(a); MSA 28.1084(a). However, despite the fact that the sentencing guidelines do not apply to habitual offenders, *People v Gatewood*, 450 Mich 1025; 546 NW2d 252 (1996), the trial court sentenced defendant within the guidelines for the underlying offense. A sentence within the guidelines is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987). Defendant has not presented any unusual circumstances to overcome the presumption. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994). The sentence imposed is proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Patrick M. Meter

/s/ E. Thomas Fitzgerald

/s/ Peter D. O'Connell