

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

LOUIS ALBERT WHEATLEY,

Defendant-Appellant.

UNPUBLISHED

May 24, 1996

No. 182385

LC No. 94-007002-FC

Before: Kavanagh, T.G.,* P.J., and R.B. Burns** and G.S. Allen,** JJ.

MEMORANDUM.

Pursuant to an agreement, defendant pleaded guilty to third-degree criminal sexual conduct, MCL 750.520d(1)(c); MSA 28.788(4)(1)(c), and fourth-degree criminal sexual conduct, MCL 750.520e(1)(b); MSA 28.788(5)(1)(b). For those respective convictions, he was sentenced to concurrent terms of five to fifteen years' imprisonment and one to two years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

The trial court did not abuse its discretion in scoring Offense Variable 12 of the sentencing guidelines. *People v Ratkov (After Remand)*, 201 Mich App 123, 125; 505 NW2d 886 (1993); *People v Randolph Warner*, 190 Mich App 26, 27-28; 475 NW2d 397 (1991). Defendant's sentences, which are within the recommended guidelines' range, do not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990); *People v Duprey*, 186 Mich App 313, 317-318; 463 NW2d 240 (1990), and do not constitute cruel and unusual punishment, *People v Williams (After Remand)*, 198 Mich App 537, 543; 499 NW2d 404 (1993).

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

**Former Court of Appeals Judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

Affirmed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.