

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DWIGHT EDWIN PARKER,

Defendant-Appellant.

UNPUBLISHED

August 16, 1996

No. 185740

LC No. 94-000088-FH

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

MEMORANDUM.

Pursuant to an agreement, defendant pleaded guilty to four counts of second-degree criminal sexual conduct, MCL 750.520c(1)(b); MSA 28.788(3)(1)(b), and was sentenced to concurrent terms of ten to fifteen years' imprisonment. He appeals as of right. We affirm in part and reverse in part. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant was not denied the right of allocution merely because the trial court had prepared a sentence departure form prior to sentencing. *People v Grady*, 204 Mich App 314, 316; 514 NW2d 541 (1994); *People v Shuler*, 188 Mich App 548, 552; 470 NW2d 492 (1991). Defendants sentences, although departures from the recommended range of the sentencing guidelines, 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). It is clear from the record that the trial court chose to ignore the suggestion that defendant had married and fathered a child to influence sentencing. The error, if any, in the court's failure to specifically state that it was not

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considering the suggestion was harmless and resentencing is not required. *People v Daniels*, 192 Mich App 658, 675-676; 482 NW2d 176 (1992).

As the prosecutor concedes, the trial court was without statutory authority to impose costs against defendant. We therefore vacate that part of the judgment of sentence which ordered defendant to pay costs.

Defendant's conviction and prison sentence are affirmed, but the imposition of costs against defendant is reversed.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.