STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

YVONNE MCDOWELL,

Defendant-Appellant.

UNPUBLISHED
September 17, 1996

No. 187904
LC No. 94-37499-FH

Before: Bandstra, P.J., and Markman and M. D. Schwartz,* JJ.

PER CURIAM.

Defendant pleaded no contest to charges of conspiracy to commit second-degree criminal sexual conduct, MCL 750.520c; MSA 28.788(3), and to habitual offender-third offense, MCL 769.11; MSA 28.1083. Defendant was sentenced to a term of imprisonment of twenty to thirty years and appeals by right. We affirm.

Defendant's sole contention on appeal is that the sentence which she received is disproportionate. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). The sentence imposed was the maximum allowable, being twice the fifteen year maximum of the underlying second degree criminal sexual conduct offense. MCL 769.11 (a); MSA 28.1083 (a).

In the instant case, defendant arranged for, and was an accomplice in, a sexual assault on a 3 1/2 year-old child by her boyfriend, a prison inmate. She brought the child along with the child's mother to visit her boyfriend in the prison so that he could molest the child. There is evidence that this had also occurred on several earlier prison visitations. In sentencing defendant the court stated:

> The offense that you committed is probably one of the most despicable offenses that could be committed . . . you secured this little child for this sexual deviant to play with and you were aware of what was going to happen and you procured it . . . the fact that you have three previous felonies also enters into this court's decision. It indicates that

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

> you are not a stranger to the system. It indicates that you do not obey the basic rules that society imposes on all of us, you not only not obey the basic rules, but you end up involving a small child in this.

On remand for further explanation of its sentence, the court elaborated:

> The facts of the case and the testimony indicate that [defendant's boyfriend] planned the operation to such an extent that it was like a military operation where it was directed as to who was going to stand where in order to block the opportunity to observe the molestation . . . The early planning indicates that Yvonne McDowell was identified as an active participant . . . Miss McDowell had previously been involved in a similar supplying of a young girl for [her boyfriend] to molest . . . for a person to repeat her conduct approximately five years later after having been exposed to the system and exposed to the possible penalties, makes this type of conduct a very intentional action on her part and makes it a very knowing involvement. None of this could have happened without the defendant's actions. The effects of this type of conduct on a small child is not known for years and it could be something that will plague her the rest of her life. The court sentenced defendant to the maximum sentence available since she had three previous convictions and because of her involvement in the previous case in which she was not prosecuted . . . this woman does not deserve any consideration because she has subjected little children in order to satisfy the perversions of her boyfriend while he's incarcerated in prison.

Our review of the trial court is limited to a determination whether the court abused its sentencing discretion. *People v Odendahl*, 200 Mich App 539, 540-41; 505 NW2d 16 (1993). A court abuses its discretion when it violates the principle of proportionality. *Milbourn*, supra at 635-36, 654. Here, defendant's sentence was within the range contemplated by the CSC-second degree and habitual offender-third statutes. While the sentence was the maximum contemplated, the court effectively set forth its rationale for such a sentence. Defendant's mitigating argument that she had not had a criminal conviction for over nineteen years before the instant offense is diluted considerably by her acknowledgment that she had also procured another child for the same prison inmate in 1988. While concededly defendant's sentence is severe, we are unable to conclude that the court abused its discretion in its imposition.

Defendant argues that "the trial court was primarily concerned with the seriousness of the offense" in imposing its sentence. Although there is nothing wrong with the trial court being "primarily concerned with the seriousness of the offense" in imposing its sentence, it appears that the court also weighed defendant's criminal background and the precise circumstances of her involvement in the instant offense. The court did not abuse its discretion in failing to weigh the individual circumstances of both the defendant and the offense.

Affirmed.

/s/ Richard A. Bandstra
/s/ Stephen J. Markman
/s/ Michael D. Schwartz