

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES RAYMOND STEWART, JR.,

Defendant-Appellant.

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UNPUBLISHED

October 4, 1996

No. 186454

LC No. 95-037741-FC

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.\*

MEMORANDUM.

Defendant pleaded guilty to second-degree criminal sexual conduct, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), and was sentenced to five to fifteen years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

We decline appellate consideration of defendant's claim of judicial bias. The issue is not properly before us for consideration because defendant failed to raise the issue below by way of a motion for disqualification. *In re Forfeiture of \$53*, 178 Mich App 480, 497; 444 NW2d 182 (1989).

Defendant's minimum sentence is within the sentencing guidelines' range and so is presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Dukes*, 189 Mich App 262, 266; 471 NW2d 651 (1991). Defendant has not presented any unusual circumstances to rebut that presumption. *People v Sharp*, 192 Mich App 501, 505-506; 481 NW2d 773 (1992). On the record before us, we find that the sentencing court did not abuse its discretion when it imposed a five-year minimum sentence. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

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\*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan