

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ADAM WADE SMITH,

Defendant-Appellant.

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UNPUBLISHED  
February 28, 1997

Nos. 194906 & 197037  
Berrien Circuit Court  
LC Nos. 95-003842 &  
95-003843

Before: Murphy, P.J., and Markey and A.A. Monton,\* JJ.

PER CURIAM.

Defendant appeals as of right in Docket No. 194906 and by leave granted in Docket No. 197037. Because both appeals concern the same issue, this Court consolidated the cases into the instant appeal. In each of the cases below, defendant pleaded guilty to attempted third-degree criminal sexual conduct, MCL 750.520d(1)(a); MSA 28.788(4)(1)(a). The victims in each case were minors who consented to having sexual intercourse with defendant. In one case, defendant was seventeen and the victim was thirteen, and in the other case, defendant was eighteen and the victim was fifteen. The circuit court sentenced defendant to concurrent terms of thirty to sixty months' imprisonment. We affirm.

Defendant argues that because he was in a boyfriend/girlfriend relationship with each of the consenting victims, whose ages were relatively close to his age, he deserves a more lenient sentence. We disagree.

This Court's review of sentencing issues is limited to determining whether the sentencing court abused its discretion. *People v Odendahl*, 200 Mich App 539, 540-541; 505 NW2d 16 (1993). To be a valid exercise of discretion, a sentence must be proportionate to the seriousness of the offense and the criminal history of the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1980). Sentences within the sentencing guidelines range are presumptively proportionate. *People v Piotrowski*, 211 Mich App 527, 532; 536 NW2d 293 (1995). However, a sentence within the

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

guidelines range could still be an abuse of discretion in unusual circumstances. *People v Sharp*, 192 Mich App 501, 505; 481 NW2d 773 (1992).

In this case, defendant's sentence in both cases was within the guidelines range and is therefore presumptively proportionate. We do not consider the factors cited by defendant to be "unusual" enough to overcome this presumption. The circuit court did not abuse its discretion in sentencing defendant.

Affirmed.

/s/ William B. Murphy

/s/ Jane E. Markey

/s/ Anthony A. Monton