

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN LEROY PARSONS,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 189901

Kalkaska Circuit Court

LC No. 95-001508-FC

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded guilty to first-degree criminal sexual conduct, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), and was sentenced to twenty-five to forty years' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant has waived the issue of proportionality of his sentence because he was sentenced in accordance with the plea agreement and yet failed to move to withdraw his guilty plea. *People v Ward*, 206 Mich App 38; 520 NW2d 363 (1994); *People v Blount*, 197 Mich App 174; 494 NW2d 829 (1992).

Defendant is not entitled to resentencing because the prosecutor allegedly violated the plea agreement by recommending that defendant be sentenced "at the very extreme, high end of the guidelines." Unlike *People v Nixten*, 183 Mich App 95; 454 NW2d 160 (1990), and its progeny, the prosecutor in this case did not agree to make any particular recommendation. Instead, the sentence agreement was set forth as limiting the trial court to sentencing defendant within the guidelines' range. In

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

addition, unlike *Nixten* and the other cases cited by defendant, the prosecutor in the case at bar did not make a recommendation for any particular number of years.

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar