

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STUART THOMAS RUSSELL,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 195284

Bay Circuit Court

LC Nos. 96-001000-FC

96-001001-FC

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

MEMORANDUM.

Pursuant to a plea agreement, defendant pleaded guilty to third-degree criminal sexual conduct, MCL 750.520d(1)(b); MSA 28.788(4)(1)(b) in lower court no. 96-001000-FC, and pleaded nolo contendere to third-degree criminal sexual conduct in lower court no. 96-001001-FC. He was sentenced to concurrent terms of four-and-a-half to fifteen years' imprisonment for each conviction and now appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

There was sufficient evidence to support the trial court's scoring twenty-five points for Offense Variable 12 of the sentencing guidelines. *People v Raby*, 218 Mich App 78; 554 NW2d 25 (1996); *People v Randolph Warner*, 190 Mich App 26, 27; 475 NW2d 397 (1991).

Defendant's sentences are within the recommended range of the sentencing guidelines and do not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 651; 461 NW2d 1 (1990); *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Williams*

*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.

(After Remand), 198 Mich App 537, 543; 499 NW2d 404 (1993). Defendant has failed to overcome the presumed proportionality of his sentences.

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar