

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARVIN PAUL GUITAR,

Defendant-Appellant.

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UNPUBLISHED

May 9, 1997

No. 191598

Macomb Circuit Court

LC No. 94-002668-FH

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

MEMORANDUM.

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

It was not improper for the trial court to consider at sentencing the fact of defendant's admitted sexual conduct in a separate case that was dismissed pursuant to a plea bargain. *People v Fleming*, 428 Mich 408, 418; 410 NW2d 266 (1987); *People v Coulter (After Remand)*, 205 Mich App 453, 456; 517 NW2d 827 (1994). The trial court's departure from the recommended range of the sentencing guidelines was justified in this case. Defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar

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\*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.