

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GEORGE MICHAEL ROZMAN,

Defendant-Appellant.

UNPUBLISHED

September 19, 1997

No. 195856

St. Clair Circuit Court

LC Nos. 95-002593-FC

95-002594-FC

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

In these two cases, defendant pleaded guilty to one count each of third-degree criminal sexual conduct, MCL 750.520d(1)(b); MSA 28.788(4)(1)(b). Defendant received concurrent sentences of ten to fifteen years' imprisonment. Defendant appeals as of right. This case is being decided without oral argument pursuant to MCR 7.214(E). We affirm.

Defendant challenges the scoring of Offense Variables 2 and 12. After the filing of defendant's appellate brief, our Supreme Court held that appellate relief is not available for claimed errors based on alleged misinterpretation or misapplication of the scoring of the guidelines. *People v Mitchell*, 454 Mich 145, 176; 560 NW2d 600 (1997). Accordingly, no appellate review or relief exists for defendant's claim that these variables were misscored.

Defendant has failed to overcome the presumption that a sentence within the guidelines is proportionate to the offense and the offender, particularly in light of the benefit bestowed upon defendant by the plea agreement. *People v Eberhardt*, 205 Mich App 587; 518 NW2d 511 (1994).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski