

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CLAUDE EDWARD CHILDRESS,

Defendant-Appellant.

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UNPUBLISHED

April 16, 1999

No. 205913

Midland Circuit Court

LC No. 96-008127 FC

Before: Wilder, P.J., and Cavanagh and Zahra, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of voluntary manslaughter, MCL 750.321; MSA 28.553. The trial court sentenced defendant to ten to fifteen years' imprisonment. We affirm.

Defendant argues that the trial court improperly scored offense variable (OV) 4. With regard to the scoring of OV 4, defendant has failed to present a legally cognizable claim. A putative error in the scoring of sentencing guidelines is not a basis upon which an appellate court can grant relief. *People v Raby*, 456 Mich 487, 499; 572 NW2d 644 (1998); *People v Mitchell*, 454 Mich 145, 175-178; 560 NW2d 600 (1997).

Defendant also contends that his sentence is disproportionate. However, defendant's sentence is within the guidelines and is therefore presumptively proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987). Defendant has not presented the sentencing court and this Court with any mitigating factors sufficient to overcome the presumption of proportionality. See *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994). We conclude that defendant's sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender. See *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990).

Affirmed.

/s/ Kurtis T. Wilder

/s/ Mark J. Cavanagh

/s/ Brian K. Zahra