STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FRED WILLIAM HINDS,

Defendant-Appellant.

UNPUBLISHED
July 5, 1996

No. 178267
LC No. 93-4981-FC

Before: Smolenski, P.J., and Holbrook, Jr., and F. D. Brouillette,* JJ.

PER CURIAM.

Defendant was convicted by a jury of first-degree criminal sexual conduct (CSC I), MCL 750.520b; MSA 28.788(2). He was sentenced to twenty to thirty years' imprisonment. He appeals as of right. We affirm.

Defendant first argues that the prosecutor violated MCL 600.1436; MSA 27A.1436 by questioning him regarding his religious beliefs. We disagree. The prosecutor's questions did not violate MCL 600.1436; MSA 27A.1436 because defendant first introduced testimony regarding his church attendance, entitling the prosecutor to cross-examine defendant regarding the frequency of his church attendance and whether he had found religion. *People v Bouchee*, 400 Mich 253; 253 NW2d 626 (1977); *People v Sommerville*, 100 Mich App 470, 486; 299 NW2d 387 (1980).

Second, defendant argues that there was insufficient evidence of CSC I to support his conviction. We disagree. A conviction of CSC I in this case required proof of: (1) sexual penetration of another person; (2) causing personal injury pursuant to MCL 750.520a; MSA 28.788(1); and (3) accomplished through use of force pursuant to MCL 750.520b(f)(i); MSA 28.788(2)(f)(i). Defendant only challenges the sufficiency of the evidence of the third element, use of force. Viewing the evidence in the light most favorable to the prosecution, we find that there was sufficient evidence of force in the victim's testimony regarding defendant's actions, especially in her testimony that she tried to fight him

* Circuit judge, sitting on the Court of Appeals by assignment.

off, but that he was too big and strong for her. *People v Hurst*, 205 Mich App 634, 640; 517 NW2d 858 (1994); *People v Malkowski*, 198 Mich App 610, 613; 499 NW2d 450 (1993).

Third, defendant argues that the jury impermissibly reached a verdict inconsistent with logic because it convicted him of one count of CSC I when he was charged with two in an alleged pattern of repeated rapes. Defendant abandoned this issue on appeal by failing to cite authority. *People v Piotrowski*, 211 Mich App 527, 530; 536 NW2d 293 (1995). In any case, his argument is without merit because the jury's verdict was permissible. *People v Vaughn*, 409 Mich 463; 295 NW2d 354 (1980).

Fourth, defendant argues that his sentence, within the guidelines range, was disproportionate to the offense and to the offender. We disagree. In light of the trial court's articulated reasons for its sentence, we find that defendant failed to present unusual circumstances sufficient to overcome the presumption of proportionality surrounding his sentence. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994); *People v Milbourn*, 435 Mich 630, 661; 461 NW2d 1 (1990). We also find, upon a careful examination of the lower court record, that the trial court did not consider defendant's religiousness in deciding upon his sentence.

Finally, defendant argues that his sentence constituted cruel or unusual punishment. We disagree. Proportional sentences, such as defendant's, are not cruel or unusual punishment. *People v Williams (After Remand)*, 198 Mich App 537, 543; 499 NW2d 404 (1993).

Affirmed.

/s/ Michael R. Smolenski
/s/ Donald E. Holbrook, Jr.
/s/ Francis D. Brouillette