

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KENNETH EUGENE SHOOK,

Defendant-Appellant.

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UNPUBLISHED

August 16, 1996

No. 180594

LC No. 94-9306-FC

Before: O'Connell, P.J., and Saad and W.J. Giovan,\* JJ.

MEMORANDUM.

Defendant appeals as of right his plea-based conviction to first-degree criminal sexual conduct with a person under thirteen, MCL 750.520b(1)(a); MSA 28.788(2)(1)(a), second-degree criminal sexual conduct with a person under thirteen, MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), and habitual offender, second offense, MCL 769.10; MSA 28.1082. Defendant was sentenced to concurrent terms of twenty to thirty-five years' imprisonment with respect to the first-degree criminal sexual conduct conviction and five to fifteen years' imprisonment with respect to the second-degree criminal sexual conduct conviction. We affirm.

The sole issue on appeal is defendant's claim that the trial court erred in assessing fifty points for offense variable (OV) 12. On January 17, 1996, this Court issued an order holding in abeyance our decision in this case pending the release of the decision in the conflict case of *People v Raby*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 173809, issued July 30, 1996), which has now been decided by a special panel of this Court pursuant to Administrative Order 1994-4.

The question concerning the proper scoring of OV 12 was addressed by the panel in *People v Raby, supra*. For the reasons stated in *Raby, supra*, we affirm the decision of the trial court.

Affirmed.

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

/s/ Peter D. O'Connell  
/s/ Henry William Saad  
/s/ William J. Giovan