

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD STREET,

Defendant-Appellant.

UNPUBLISHED

January 24, 1997

No. 191614

Berrien Circuit Court

LC No. 93-002747-FH

Before: Fitzgerald, P.J., and MacKenzie and A.P. Hathaway,* JJ.

PER CURIAM.

Defendant was charged with intent to deliver less than fifty grams of cocaine and carrying a concealed weapon. Pursuant to a plea agreement, he pleaded guilty of possession of less than twenty-five grams of cocaine, MCL 333.7403(2)(a)(v); MSA 14.15(7403)(2)(a)(v), and was sentenced to three years' probation. Defendant subsequently pleaded guilty of violating the terms of his probation and was sentenced to a prison term of eighteen to forty-eight months. Defendant appeals as of right. We affirm.

Defendant contends only that his sentence, which is outside the minimum recommended guidelines of zero to twelve months for the underlying offense, is disproportionate. However, the sentencing guidelines do not apply to probation violations. *People v Cotton*, 209 Mich App 82, 84; 530 NW2d 495 (1995). Further, the trial court is at liberty to consider defendant's action and the seriousness and severity of the facts and circumstances surrounding the probation violation in arriving at the proper sentence. *People v Smith*, 195 Mich App 147, 150; 489 NW2d 135 (1992). Here, defendant violated his probation by assaulting and robbing a woman in an effort to get money to buy crack cocaine. Under these circumstances, we find that the eighteen-month minimum sentence is not disproportionate. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

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

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Barbara B. MacKenzie
/s/ Amy Patricia Hathaway