

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DAVID THOMPSON,

Defendant-Appellant.

UNPUBLISHED

May 6, 1997

Nos. 189381, 192276

Genesee Circuit Court

LC Nos. 94-050276,

94-051193

Before: Holbrook, Jr., P.J., and Fitzgerald and Smolenski, JJ.

MEMORANDUM.

Defendant pleaded guilty of attempted receipt of stolen property in excess of \$100, MCL 750.535; MSA 28.803, in two separate cases, and was sentenced to serve probation in each case. Subsequently, the trial court in each case found that defendant had violated the terms of his probation by assaulting his former girlfriend and by being outside his home in violation of the conditions of his electronic tether surveillance. Defendant was sentenced to serve prison terms of twenty to thirty months (No. 94-050276-FH) and forty to sixty months (No. 94-051193-FH). This Court consolidated defendant's two appeals and we now affirm.

In these consolidated cases, defendant argues that insufficient evidence was presented to support his convictions of probation violation. We disagree. At a probation violation hearing, a rational trier of fact must determine whether the defendant violated his probation by a preponderance of the evidence. *People v Reynolds*, 195 Mich App 182, 184; 489 NW2d 128 (1992). Given the testimony presented at the hearings in this case, the fact that trial courts are not bound by the normal rules of evidence in such hearings, MCR 6.445(E)(1), and the fact that we generally defer to the superior ability of the trial court to evaluate the credibility of witnesses who appear before it, MCR 2.613(C); *People v Vaughn*, 186 Mich App 376, 380; 465 NW2d 365 (1990), we conclude that the trial courts' factual findings were not clearly erroneous and that they did not abuse their discretion in revoking defendant's probation.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ E. Thomas Fitzgerald

/s/ Michael R. Smolenski