

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHANTHAN SAMUEL MITCHELL,

Defendant-Appellant.

UNPUBLISHED

June 19, 1998

No. 197204

Recorder's Court

LC No. 89-010980

Before: Young, Jr., P.J., and Kelly and Doctoroff, JJ.

MEMORANDUM.

Defendant was found guilty of violating the terms of the probation imposed for his underlying conviction of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), and was sentenced to five to twenty years' imprisonment. He now appeals as of right. We affirm.

Defendant argues that there was insufficient evidence presented at his probation hearing to find him guilty of unarmed robbery. We disagree.

The elements of unarmed robbery are: (1) a felonious taking of property from another, (2) by force, violence, assault or putting in fear, and (3) being unarmed. MCL 750.530; MSA 28.798; *People v Johnson*, 206 Mich App 122, 125-126; 520 NW2d 672 (1994). Having reviewed the record, we conclude that sufficient evidence was presented to support a finding by a preponderance of the evidence that defendant committed unarmed robbery. Evidence was presented that defendant removed a gold ring, gun, and watch from the complainant as his codefendant wrestled with the complainant inside the complainant's home. Defendant and his codefendant were unarmed when they entered the complainant's home. This evidence was sufficient to support a finding that defendant engaged in an unarmed robbery and, therefore, violated the terms of his probation.

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Michael J. Kelly

/s/ Martin M. Doctoroff