

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JOHN ROBERT COPEN,

Defendant-Appellant.

UNPUBLISHED

August 20, 1999

No. 213956

Allegan Circuit Court

LC No. 94-009498 FH

Before: White, P.J., and Markey and Wilder, JJ.

MEMORANDUM.

Defendant appeals by right his sentence for probation violation following his plea-based conviction of receiving and concealing stolen property over \$100, MCL 750.535a; MSA 28.803(1). We affirm.

On May 27, 1994 defendant pleaded guilty to receiving and concealing stolen property over \$100. On July 22, 1994 the court sentenced defendant to serve three years' probation and to pay restitution and costs in the amounts of \$1,444.88 and \$450, respectively. On May 12, 1998 defendant's probation was revoked following his plea of guilty to charges of resisting and obstructing a police officer, habitual offender, second offense, and escape from lawful custody. On May 22, 1998 the court sentenced defendant to two to three years in prison, with credit for 114 days, for resisting and obstructing, and to 114 days in jail, with credit for 114 days, for escape from lawful custody. On May 29, 1998 the court sentenced defendant to three years, four months to five years in prison, with credit for 486 days, for probation violation.

Defendant argues that his sentence is disproportionate. We disagree. The sentencing guidelines do not apply to sentences imposed after a violation of probation. *People v Williams*, 223 Mich App 409, 412; 566 NW2d 649 (1997). The key test of the proportionality of a sentence is whether it reflects the seriousness of the matter. *People v Houston*, 448 Mich 312, 320; 532 NW2d 508 (1995). Defendant repeatedly failed to comply with the terms of his probation, in spite of the fact that he was given multiple opportunities to do so. He committed new offenses while on probation. The factors cited by defendant, i.e., his age and his substance abuse problem, do not establish that the

sentence is disproportionate under the circumstances. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994).

Finally, defendant's assertion that he is entitled to have his presentence investigation report amended to remove a reference to a dismissed charge is not preserved. Defendant failed to challenge the accuracy or relevancy of the information at the time of sentencing. MCL 771.14(5); MSA 28.1144(5); *People v Sharp*, 192 Mich App 501, 504; 481 NW2d 773 (1992).

Affirmed.

/s/ Helene N. White

/s/ Jane E. Markey

/s/ Kurtis T. Wilder