

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RYAN PATRICK COBLEY,

Defendant-Appellant.

UNPUBLISHED
September 3, 1999

No. 203875
Livingston Circuit Court
LC No. 93-007911 FH

Before: Markman P.J., and Saad and P. D. Houk*, JJ.

MEMORANDUM.

Defendant appeals as of right his conviction of probation violation after plea-based convictions of prison escape, MCL 750.193; MSA 28.390, and habitual offender, third offense, MCL 769.11; MSA 28.1083. We affirm.

Defendant pleaded guilty to the underlying charges in Livingston Circuit Court. The trial court sentenced him to five years' probation, with the first year on an electronic tether. The sentence was to be consecutive to the prison terms defendant was serving. The trial court noted that if a sentence defendant was to receive in Macomb Circuit Court made a term of probation impossible, the instant sentence would be modified.

Defendant was paroled in August, 1994. In March, 1997 he was convicted of several criminal offenses in Shiawassee County. Defendant was charged with probation violation in Livingston County. The trial court found defendant guilty of violating his probation on the ground that he committed criminal offenses while on probation. The trial court sentenced defendant to six and one-half to ten years in prison.

A violation of probation must be established by a preponderance of the evidence. *People v Reynolds*, 195 Mich App 182, 184; 489 NW2d 128 (1992). The rules of evidence, other than those pertaining to privileges, do not apply in a probation violation hearing. MCR 6.445(E)(1).

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

We affirm. Defendant's argument that the prosecution produced insufficient evidence to establish that he was placed on probation in Livingston County is without merit. A signed order

of probation was admitted into evidence. Viewed in a light most favorable to the prosecution, this evidence would allow a rational trier of fact to conclude that defendant was sentenced to probation upon conviction of the underlying charges. *People v Ison*, 132 Mich App 61, 66; 346 NW2d 894 (1984). Defendant's argument that his right to due process was violated by the failure to inform him of the terms and conditions of his probation is without merit. Due process requires that a defendant be given prior notice of the terms and conditions of probation before a court can revoke probation for failure to adhere to those terms and conditions. *People v Stanley*, 207 Mich App 300, 307; 523 NW2d 892 (1994). At sentencing, the trial court stated that a condition of that probation was that defendant not violate the laws of any unit of government. A defendant is presumed to know conditions of probation prescribed by law. *People v Pippin*, 316 Mich 191, 196; 25 NW2d 164 (1946). The prohibition against breaking the law of any unit of government is a condition prescribed by statute. MCL 771.3(1)(a); MSA 28.1133(1)(a).

Affirmed.

/s/ Stephen J. Markman

/s/ Henry William Saad

/s/ Peter D. Houk