

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

PAULA MARIE VERDUN,

Defendant-Appellant.

UNPUBLISHED
October 12, 1999

No. 212499
Genesee Circuit Court
LC No. 96-053634 FH

Before: Griffin, P.J., and Zahra and S.L. Pavlich*, JJ.

MEMORANDUM.

Defendant appeals of right her sentence for violation of probation following her plea-based conviction of false pretenses over \$100, MCL 750.218; MSA 28.415. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant pleaded nolo contendere to one count of false pretenses over \$100. Seven other charges were dismissed. On June 28, 1996 the court sentenced defendant to five years' probation, with the first 180 days in jail, and ordered restitution in the amount of \$56,438.75.

In July, 1997 defendant pleaded guilty to violation of probation. Sentencing was delayed in order to allow her the opportunity to comply with the terms of her probation. On January 5, 1998 defendant was charged with probation violation for failing to report. The trial court found her guilty as charged. On February 6, 1998 the court sentenced defendant to three to ten years in prison, with credit for 176 days. The court observed that defendant had failed to take advantage of multiple opportunities to comply with the terms of her probation.

Defendant argues that her sentence is disproportionate. We disagree. The sentencing guidelines do not apply to probation violators. A sentencing court is not to consider the guidelines for the underlying offense when fashioning a sentence for probation violation. *People v Williams*, 223 Mich App 409, 412-413; 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

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

508 (1995). Defendant repeatedly failed to comply with the terms of her probation, in spite of the fact that she was given multiple opportunities to do so.

The factors cited by defendant, i.e., her lack of a prior record and the non-violent nature of the offense, do not establish that the sentence is disproportionate under the circumstances. *People v Daniel*, 207 Mich App 47, 54; 523 NW2d 830 (1994).

Affirmed.

/s/ Richard Allen Griffin

/s/ Brian K. Zahra

/s/ Scott L. Pavlich