

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TERRY JERMAINE PRATT,

Defendant-Appellant.

UNPUBLISHED
October 19, 1999

No. 212701
Van Buren Circuit Court
LC No. 94-009132 FC

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

MEMORANDUM.

Defendant was convicted of kidnapping, MCL 750.349; MSA 28.581, and assault with intent to commit great bodily harm less than murder, MCL 750.84; MSA 28.279. He was sentenced to sixty months on probation, the first year of which was to be spent in jail. However, the court ordered that defendant be released to boot camp. Defendant was subsequently charged with engaging in threatening behavior, in violation of term 11 of his probation order. Following a probation violation hearing, defendant was found guilty of the probation violation and was sentenced to ~~3½~~ twenty-five years' imprisonment for the kidnapping conviction and ~~3½~~ ten years' imprisonment for the assault conviction. Defendant appeals as of right the order revoking his probation and imposing sentence. We affirm.

Defendant first argues that the trial court erred by denying defendant's request to strike allegations of misconduct from his presentence report pursuant to MCR 6.425(D)(3) because the information was not relevant. We disagree. The trial court determined that the challenged allegations showed a history of negative behavior that was relevant in fashioning an appropriate sentence. Hence, the trial court was not obligated to strike the information from the presentence report. MCR 6.425(D)(3).

Defendant next argues that the evidence was insufficient to support a finding that defendant violated the terms of probation. Specifically, defendant contends that the trial court improperly considered evidence that was not charged in the petition and that the evidence failed to establish that defendant engaged in threatening behavior in violation of term 11 of the probation order. We disagree. The trial court relied on relevant evidence produced at the probation violation hearing pursuant to MCR 6.445(E)(1) when it concluded that defendant engaged in threatening behavior. Evidence that defendant

told the husband of his former supervisor that “I’ll kill you” was sufficient to allow a reasonable finder of fact to conclude that defendant engaged in threatening behavior.

Affirmed.

/s/ Harold Hood

/s/ Donald E. Holbrook, Jr.

/s/ E. Thomas Fitzgerald