

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN GREGORY SYPULA,

Defendant-Appellant.

UNPUBLISHED

February 6, 2001

No. 217664

Oakland Circuit Court

LC No. 79-040416-FY

Before: Zahra, P.J., and Smolenski and Gage, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment sentencing him to a prison term of 10 to 20 years for delivery of 50 to 225 grams of cocaine, MCL 333.7401(2)(a)(iii); MSA 14.15(7401)(2)(a)(iii), following an adjudication that he violated probation. We affirm.

In 1979, defendant was sentenced to lifetime probation for the underlying drug offense. In 1989, he pleaded guilty to violation of probation and was sentenced to ninety days in jail or payment of a \$500 fine. In 1992, defendant again pleaded guilty to violation of probation and was sentenced to a year in jail. In 1997, the court found defendant guilty of violating his probation yet again, revoked probation, and imposed the sentence noted above. Defendant contends that because the 1989 judgment of sentence did not expressly state that his probation was continued, his probationary status was revoked and therefore the court lacked the authority to sentence him for violation of probation in 1997. We disagree.

To resolve this issue, we must determine whether there is any evidence in the record that the trial court intended to continue defendant's probation in 1989. *People v Barfield*, 411 Mich 700, 701; 311 NW2d 724 (1981). It appears from our review of the available record that the trial court did intend to continue defendant's probation in 1989. This conclusion is supported by: (1) the trial court's 1989 docket entries, (2) the fact that the court did not impose a sentence consistent with the penalty authorized for the underlying crime, (3) the fact that defendant admitted he was still on probation in 1992 by pleading guilty to a violation thereof, and (4) the fact that the 1992 judgment continued defendant's probation.

Affirmed.

/s/ Brian K. Zahra

/s/ Michael R. Smolenski

/s/ Hilda R. Gage