

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT FORSTER,

Defendant-Appellant.

UNPUBLISHED

June 5, 2001

No. 221488

Genesee Circuit Court

LC No. 95-052979-FH

Before: McDonald, P.J., and Smolenski and K. F. Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right from a forty-to-sixty-month sentence for aggravated stalking, MCL 750.411i; MSA 28.643(9), following an adjudication that he violated the terms of his probation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's sole claim on appeal is that his sentence was disproportionate. This Court's review is limited to determining whether the trial court abused its discretion by violating the principle of proportionality. An abuse of discretion will be found "where the sentence imposed does not reasonably reflect the seriousness of the circumstances surrounding the offense and the offender." *People v St John*, 230 Mich App 644, 649; 585 NW2d 849 (1998); *People v Castillo*, 230 Mich App 442, 447; 584 NW2d 606 (1998).

A sentence must be proportionate to the seriousness of the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). "Sentencing requires consideration of a number of factors: (1) severity of the crime; (2) the nature of the crime; (3) circumstances surrounding the criminal behavior; (4) defendant's attitude toward his criminal behavior; (5) defendant's criminal history; (6) defendant's social and personal history; and (7) statutory sentencing limits." *People v Ross*, 145 Mich App 483, 495; 378 NW2d 517 (1985). Those factors "should be balanced with the following objectives: (1) reformation of the offender, (2) protection of society, (3) punishment of the offender, and (4) deterrence of others from committing like offenses." *People v Rice (On Remand)*, 235 Mich App 429, 446; 597 NW2d 843 (1999) (citations omitted.)

We find no basis for reviewing defendant's sentence for violation of probation in light of that applicable to the underlying offense under the statutory guidelines. See *People v Reynolds*,

240 Mich App 250, 253-254; 611 NW2d 316 (2000). In light of all the facts and circumstances, including defendant's prior history which included incarceration for stalking following violation of probation, defendant's poor performance on bond, delayed sentence, probation, and that defendant was apparently intending to contact the victim when he was arrested for violation of probation, we find that the trial court did not abuse its sentencing discretion.

Affirmed.

/s/ Gary R. McDonald
/s/ Michael R. Smolenski
/s/ Kirsten Frank Kelly