

STATE OF MICHIGAN  
COURT OF APPEALS

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BYRON GENE CRONKRIGHT, III,

Defendant-Appellant.

---

UNPUBLISHED

November 30, 2001

No. 224534

Saginaw Circuit Court

LC No. 94-009312-FH

Before: Doctoroff, P.J., and Wilder and C. C. Schmucker\*, JJ.

MEMORANDUM.

Defendant appeals as of right his probation violation conviction and sentence. We affirm.

Defendant pleaded guilty to assault with intent to commit great bodily harm, MCL 750.84, and carrying a dangerous weapon with unlawful intent, MCL 750.226. He was sentenced to five years' probation. He was found guilty of violating probation after he failed to submit to drug tests.

On appeal, defendant argues that there was insufficient evidence to support the probation violation conviction and his sentence is excessive. We disagree.

There was sufficient evidence to support the finding of a probation violation. *People v Wolfe*, 440 Mich 508; 489 NW2d 748 (1992). One of the conditions of probation was that defendant submit to drug tests that his probation officer ordered. The evidence clearly showed that defendant failed to submit to the required drug tests.

Defendant has failed to show that his sentence is excessive. Sentencing guidelines do not apply to probation violations, however they provide a useful starting point for determining if a sentence is proportional. *People v Cotton*, 209 Mich App 82; 530 NW2d 495 (1995). Here, defendant's sentence was within the guidelines range as originally calculated, and presumptively proportionate. *Id.*, 85. Defendant has failed to present any unusual circumstances that would overcome the presumption of proportionality. *Id.*

---

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

Affirmed.

/s/ Martin M. Doctoroff

/s/ Kurtis T. Wilder

/s/ Chad C. Schmucker