

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

DESMOND GREGORY SAMPSON,

Respondent-Appellant.

UNPUBLISHED

June 23, 2009

No. 283327

Wayne Circuit Court

LC No. 01-404064-DL

Before: Jansen, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

Following a plea of guilty to a charge of second-degree murder, respondent (DOB 5-3-87) was placed with the Wayne County Department of Community Justice until age 21, at which point the court was to reconsider whether an adult sentence should be imposed. Following a determination that respondent had pleaded guilty to two retail fraud charges and had not been rehabilitated, the trial court sentenced respondent to 13.5 to 22.5 years' imprisonment with credit for the five years he had spent in the juvenile justice system. Respondent appeals as of right. We affirm.

Respondent argues that, pursuant to MCR 6.931(F)(2) and 6.933(B)(1)(b), the trial court was prohibited from revoking his probation because he was not advised at his original sentencing that a subsequent conviction of a felony or a misdemeanor punishable by more than one year's imprisonment would result in the revocation of his probation and the imposition of a prison sentence. MCR 6.931(F)(2) provides:

The court shall advise the juvenile at sentencing that if the juvenile, while on juvenile probation, is convicted of a felony or a misdemeanor punishable by more than one year's imprisonment, the court must revoke juvenile probation and sentence the juvenile to a term of years in prison not to exceed the penalty that might have been imposed for the offense for which the juvenile was originally convicted.

According to MCR 6.933(B)(1)(b), a trial court may not revoke a juvenile's probation for a subsequent conviction unless "at the original sentencing the court gave the advice, as required by MCR 6.931(F)(2)" We find respondent's argument unavailing.

Respondent pleaded guilty to and was convicted of second-degree murder, MCL 750.317. Consequently, pursuant to statute and court rule, the sentencing court was required to sentence

defendant “in the same manner as an adult.” MCL 769.1(1); MCR 6.931(A). Thus, respondent’s original sentencing and the revocation of his probation were governed by the general court rules pertaining to sentencing, MCR 6.425, and probation revocation, MCR 6.445, rather than the rules pertaining to the sentencing of juveniles, MCR 6.931, and to the revocation of a juvenile’s probation, MCR 6.933. The general rules pertaining to sentencing and probation revocation do not contain the requirements of MCR 6.931 and MCR 6.933 that a court must inform a juvenile at sentencing that if the juvenile, while on probation, receives a subsequent conviction, the court must revoke the juvenile’s probation and sentence the juvenile to a prison term and that, absent such advice, the court may not revoke the juvenile’s probation for a subsequent conviction. Accordingly, the trial court was not prohibited from revoking respondent’s probation because respondent at his original sentencing had not been informed that his probation would be revoked if he was subsequently convicted of a felony or a misdemeanor punishable by more than one year’s imprisonment.

Affirmed.

/s/ Kathleen Jansen
/s/ Joel P. Hoekstra
/s/ Jane E. Markey