

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KATHY EILEEN RHANOR,

Defendant-Appellant.

UNPUBLISHED

September 23, 1997

No. 196714

Muskegon Circuit Court

LC No. 94-037574 FH

Before: Markey, P.J., and Neff and Smolenski, JJ.

MEMORANDUM.

After pleading guilty to OUIL, third offense, defendant was initially placed on probation, with the first year to be spent in the county jail and three months thereafter on the electronic tether program. A substantial portion of the incarcerative term was remitted to permit defendant to enroll in an alcohol rehabilitation program. Nonetheless, defendant pleaded guilty to probation violations involving possession and consumption of alcohol. On this appeal of right, defendant contends that her sentence of two and one-half to five years' imprisonment, following the probation violation adjudication, is disproportionate to the offense and the offender. We affirm.

The presentence report reflects that defendant acknowledges a total of five convictions for OUIL, three in Michigan, one in Georgia, and one in Florida. By the time she was sentenced for probation violation, the trial court's other options had been fairly exhausted. Neither stringent probation with jail nor rehabilitative therapy had deterred defendant from continuing to consume alcoholic beverages, despite her acknowledgment that she suffers from liver disease and will eventually need a transplant. The trial court's conclusion that only a significant prison sentence will provide defendant with the opportunity to dry out and prevent her dying of liver failure, at least in the short term, as well as deter future criminal conduct and punish defendant for her offense, does not represent an abuse of its sentencing discretion on this record. See *People v Williams*, 223 Mich App 409, 411-412; 560 NW2d 649 (1997).

Affirmed.

/s/ Jane E. Markey

/s/ Janet T. Neff

/s/ Michael R. Smolenski