

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS RAY HEAL, JR.,

Defendant-Appellant.

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UNPUBLISHED

July 14, 1998

No. 200970

Genesee Circuit Court

LC No. 94-049920 FH

Before: Murphy, P.J., and Young, Jr. and M. R. Smith\*, JJ.

MEMORANDUM.

Defendant pleaded nolo contendere to felonious assault, MCL 750.82; MSA 28.277, and received a sentence of five years' probation. Defendant subsequently pleaded guilty to violating the terms of his probation and was sentenced to 2-1/2 to 4 years' imprisonment. Defendant appeals as of right. We affirm.

Defendant's challenge to the proportionality of his sentence has been rendered moot because defendant has fully served his minimum sentence. *People v Rutherford*, 208 Mich App 198, 204; 526 NW2d 620 (1994).

Affirmed.

/s/ William B. Murphy

/s/ Robert P. Young, Jr.

/s/ Michael R. Smith

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