

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEROME L. KNIGHT a/k/a JEROME CARSON,

Defendant-Appellant.

UNPUBLISHED

February 23, 2001

No. 228890

Wayne Circuit Court

LC No. 97-003030

Before: Meter, P.J., and Neff and O'Connell, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his conviction for probation violation. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Probation violation hearings are summary and informal and are not subject to the rules of evidence or of pleading applicable in a criminal trial. The scope of these proceedings is limited and the full panoply of constitutional rights applicable in a criminal trial do not attach. *People v Johnson*, 191 Mich App 222, 225; 477 NW2d 426 (1991). A probationer has a right to a procedure consisting of (1) a factual determination that the probationer is in fact guilty of violating probation, and (2) a discretionary determination of whether the violation warrants revocation. *People v Laurent*, 171 Mich App 503, 505; 431 NW2d 202 (1988).

Only evidence relating to the charged probation violation activity may be considered at a violation hearing, and only that evidence may provide the basis for a decision to revoke probation. *People v Pillar*, 233 Mich App 267, 270; 590 NW2d 622 (1998). Probation may not be revoked solely on the basis that the probationer was arrested. There must be verified facts in the record from which the court can find by a preponderance of the evidence that a violation was committed. *Id.*

Defendant was charged with probation violation based on a pending criminal trial for a breaking and entering allegedly committed during his probation, failure to complete drug treatment, and testing positive for cocaine and marijuana usage. Although the court initially found a probation violation based on the pending charge, it later found that the violation was based on the failure to complete drug treatment and the use of drugs, and it did not rely on the pending charge. Defendant admitted to the drug violations. Defendant was not denied due

process of law where the probation violation was based on charged activity that was supported by the record.

Affirmed.

/s/ Patrick M. Meter

/s/ Janet T. Neff

/s/ Peter D. O'Connell