

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KIP DOUGLAS KIDDER,

Defendant-Appellant.

UNPUBLISHED

June 4, 1996

No. 183617

LC No. 93001209 FH

Before: Corrigan, P.J., and MacKenzie and P.J. Clulo,* JJ.

MEMORANDUM.

Defendant appeals by right his conviction of probation violation on an original charge of attempted felonious assault, MCL 750.82; MSA 28.277, and his sentence to a one year term of incarceration in the county jail. The Calhoun County prosecutor has not defended this appeal. We affirm.

Defendant makes two claims on appeal. First, he contends that the trial court abused its discretion by finding him guilty of probation violation on the basis of insufficient evidence. The sentencing judge correctly characterized defendant's contact with the victim as a violation of the probation order prohibiting contact with her. Defendant followed the victim and placed her in fear; his contact violated a term of probation. The trial court, as trier of fact, found the victim's story more plausible than defendant's. Credibility is a matter for the trier of fact. *People v Premen*, 210 Mich App 211, 221; 532 NW2d 872 (1995). Reviewing the evidence in a light most favorable to the prosecution, we conclude that a rational trier of fact could have found that defendant violated probation.

Second, defendant contends that the one-year term of incarceration violates the principle of proportionality, *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). Because defendant has completed his term of incarceration, his proportionality claim is moot. *People v Briseno*, 211 Mich App 11, 17; 535 NW2d 559 (1995); *People v Greenberg*, 176 Mich App 296, 302; 439 NW2d 336 (1989).

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

Affirmed.

/s/ Maura D. Corrigan
/s/ Barbara B. MacKenzie
/s/ Paul J. Clulo