

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK ANTHONY O'DELL,

Defendant-Appellant.

UNPUBLISHED

October 1, 1996

No. 191635

LC No. 92-001723-FH

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.*

MEMORANDUM.

Defendant pleaded guilty to violating probation on his underlying conviction of felonious assault, MCL 750.82; MSA 28.277, and was sentenced to thirty-one to forty-eight months' imprisonment. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Under the facts and circumstances of this case, the trial court did not err as a matter of law when it accepted defendant's waiver of an updated presentence report. *People v Hemphill*, 439 Mich 576, 581-583; 487 NW2d 152 (1992).

The trial court did not abuse its discretion in sentencing defendant. *People v Cervantes*, 448 Mich 620, 626-627; 532 NW2d 831 (1995). Defendant's sentence is proportionate to the seriousness of the circumstances surrounding the offense, the offender, and the probation violation. *People v Milbourn*, 435 Mich 630, 635-636; 461 NW2d 1 (1990).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.