

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DENISE ANTOINETTE WELLS,

Defendant-Appellant.

UNPUBLISHED
October 15, 1996

No. 187969
LC No. 93-049489-FH

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

MEMORANDUM.

Defendant pleaded guilty to violating probation on her underlying conviction of attempted arson of a dwelling house, MCL 750.72; MSA 28.267 and MCL 750.92; MSA 28.287, and was sentenced to three to five years' imprisonment. She appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Contrary to defendant's claim, the record reflects that the trial court considered her potential for reformation in imposing sentence. *People v Schultz*, 435 Mich 517, 532; 460 NW2d 505 (1990). Although the trial court also considered the protection of society, which is the main factor to consider in sentencing, *id.*, it simply believed that defendant's sentence was appropriate in light of her behavior while on probation.

Defendant also contends that she should only be held accountable for her actions to the extent that they are not the result of her mental illness. However, defendant cites no authority for this proposition and has therefore abandoned this issue. *People v Piotrowski*, 211 Mich App 527, 530; 536 NW2d 293 (1995). We further note that defendant was found competent to plead and therefore should be held accountable for her actions.

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

Defendant argues that her sentence is disproportionate because the trial court exceeded the sentencing guidelines by 200 percent and because her probation violation was one of merely failing to report to the probation department. However, the guidelines to which defendant refers were those prepared for the underlying conviction of attempted arson of a dwelling house. As such, the guidelines are inapplicable to the present probation violation. Moreover, while on probation, defendant apparently engaged in the same type of criminal activity for which she was on probation. Accordingly, defendant's sentence is proportionate to the seriousness of the circumstances surrounding defendant and her offense. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990).

Affirmed.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan