

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD MELVIN POHJOLA,

Defendant-Appellant.

UNPUBLISHED

January 28, 1997

No. 181414

Oscola Circuit Court

LC No. 94-002143-FH

Before: Hoekstra, P.J., and Markey and J.C. Kingsley,* JJ.

PER CURIAM.

Defendant pleaded guilty to obtaining a controlled substance by fraud, MCL 333.7407(1)(c); MSA 14.15(7407)(1)(c), and was sentenced to serve three years' probation and ninety days' incarceration. Defendant appeals as of right on the basis that his sentence is disproportionate. We affirm.

A sentence must be proportionate to the seriousness of the circumstances surrounding the crime and the offender. *People v Milbourn*, 435 Mich 630, 635-636, 654; 461 NW2d 1 (1990). A sentence imposed within an applicable sentencing guidelines range is presumed proportionate. *People v Broden*, 428 Mich 343, 354-355; 408 NW2d 789 (1987); *People v Spicer*, 216 Mich App 270, 276; 548 NW2d 245 (1996). Nevertheless, a sentence within a guidelines range can conceivably violate proportionality in unusual circumstances. *Milbourn, supra* at 661.

Here, defendant forged his doctor's signature on a prescription form in order to obtain schedule 3 controlled substances. The sentencing guidelines called for a sentence between zero and six months' incarceration, so defendant's sentence of 90 days' incarceration is within the range. *Broden, supra*. Defendant claims, however, that the three year term of probation is disproportionate, despite his 1987 conviction for the same offense and the existence of a subsequent charge involving the same type of offense in another county upon which defendant was arraigned during the pendency of this case. Because defendant provides no case support for his assertion that his term of probation takes his

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

sentence outside the sentencing guidelines and destroys the presumption of proportionality, we will not search for supporting authority. See *People v Hoffman*, 205 Mich App 1, 17; 518 NW2d 817 (1994).

In any event, in light of the offense and the offender, we find that defendant's sentence is proportionate. *Milbourn, supra*.

Affirmed.

/s/ Joel P. Hoekstra

/s/ Jane E. Markey

/s/ James C. Kingsley