

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALPHONSO N. JAMISON,

Defendant-Appellant.

UNPUBLISHED
February 14, 1997

No. 190916

Macomb Circuit Court
LC No. 93-2305-FH

Before: Hood, P.J., and Saad and T.S. Eveland,* JJ.

MEMORANDUM.

Defendant, who was placed on lifetime probation after entering a plea of guilty to possession with intent to deliver less than 50 grams of cocaine, MCL 333.7401(2)(a)(iv); MSA 14.15(7401)(2)(a)(iv), entered a plea of guilty to violating his probation by testing positive for drug use. The trial court continued defendant's lifetime probation with the additional sentence of one year in jail. He appeals as of right. We affirm.

Defendant argues that his sentence of one year in jail in addition to continuation of lifetime probation is disproportionate. We first note that defendant has failed to provide an adequate record by not supplying this Court with the Presentence Investigation Report. This alone requires us to affirm. *People v Coons*, 158 Mich App 735, 740; 405 NW2d 153 (1987).

In any event, a sentence must be proportional to the circumstances surrounding the offense and the offender. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). Because defendant's one-year sentence is within the statutory minimum term for the underlying offense, his sentence is presumptively valid and proportionate. *People v Arcos*, 206 Mich App 374, 377; 522 NW2d 655 (1994); *People v Williams*, 189 Mich App 400, 403-404; 473 NW2d 727 (1991). A defendant may present sufficient mitigating factors to overcome that presumption. *People v Eberhardt*, 205 Mich App 587, 591; 518 NW2d 511 (1994).

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

Defendant has failed to rebut the presumption of proportionality. In sentencing defendant, the trial court noted that it had given defendant “the break of the century” by sentencing him to lifetime probation rather than one to twenty years’ imprisonment. Despite this “break,” defendant violated his probation by continuing to abuse drugs. It was also noted that an earlier probation violation charge was issued, but the court did not revoke or modify defendant’s probation. We conclude that the trial court did not abuse its discretion in sentencing defendant to one year in jail in addition to a continuation of lifetime probation.

Affirmed.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Thomas S. Eveland