

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTINE JANE NAKONECZNY,

Defendant-Appellant.

UNPUBLISHED

February 14, 1997

No. 195710

Presque Isle Circuit Court

LC No. 95-91507 FH

Before: O'Connell, P.J., and Markman and M.J. Talbot,* JJ.

PER CURIAM.

Defendant was charged with second-degree child abuse. MCL 750.136b(3); MSA 28.331(2)(3). She pleaded nolo contendere, and was sentenced to five years' probation. She subsequently violated the terms of her probation, which was revoked. The circuit court then imposed a sentence of thirty-two to forty-eight months with respect to the underlying offense. She now appeals as of right. We remand for resentencing.

On appeal, defendant raises four issues with respect to the sentence imposed. We find one of these arguments to have merit, and remand for resentencing on that ground. We decline to address the remaining arguments raised in this context because resentencing will cure the remaining allegations of error, if, in fact, any error occurred.

Defendant contends that the court considered an improper factor when fashioning an appropriate sentence, namely, the medical and psychiatric expenses that would be borne by the county were defendant sentenced to a term of incarceration of one year or less. The evidence produced at sentencing indicated that defendant suffered extensive psychiatric problems and was experiencing a "problem pregnancy." The court spoke critically of the Legislature in burdening counties with the costs of incarcerating inmates for up to an entire year while "never giv[ing] the money when they say they are going to give the money." Despite the fact that the guidelines recommended a minimum sentence of between zero and six months,¹ the court then sentenced defendant to the maximum sentence allowed by

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

law. The effect of this sentence was to shift responsibility for defendant's incarceration from the county to the state.

Our review of the record indicates that defendant's contention is correct. As stated in *People v Snow*, 386 Mich 586, 592; 194 NW2d 314 (1972), relying on *Williams v New York*, 337 US 241; 69 S Ct 1079; 93 L Ed 1337 (1949), the following factors are appropriate considerations when imposing sentence: reformation of the offender; protection of society; the disciplining of the offender; and deterrence of others. In the present case, the court's emphasis of financial considerations was clearly inappropriate. Therefore, we remand for resentencing.

Defendant raises one additional argument that does not pertain to sentencing. She argues that she was entitled to be advised of her right against compelled self-incrimination when she was being questioned with respect to her probation violations. By failing to offer any support for her position, however, we consider this issue to be abandoned. *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

Remanded for resentencing. We do not retain jurisdiction.

/s/ Peter D. O'Connell
/s/ Stephen J. Markman
/s/ Michael J. Talbot

¹ While the sentencing guidelines do not apply to probation violations, they continue to be used as a "starting point" when determining the proportionality of a sentence imposed as a result of a probation violation. *People v Britt*, 202 Mich App 714, 717; 509 NW2d 914 (1993).