

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DERRICK DUANE PINSON,

Defendant-Appellant.

UNPUBLISHED
February 25, 1997

No. 191116
Genesee Circuit Court
LC No. 95-051748

Before: White, P.J., and Cavanagh and J.B. Bruff,* JJ.

MEMORANDUM.

Defendant pleaded guilty of felonious assault, MCL 750.82; MSA 28.277, and being a felon in possession of a firearm, MCL 750.224f; MSA 28.421(6), and he was sentenced to five years' probation for each offense. Defendant subsequently pleaded guilty of violating probation. The trial court then sentenced defendant to four to six years' imprisonment for the felonious assault conviction and five to seven and one half years' imprisonment for the firearm conviction. Defendant appeals his sentence as of right, and we affirm.

In his sole issue on appeal, defendant argues that his sentence for the conviction of being a felon in possession of a firearm violates the principle of proportionality because it exceeds the sentencing guidelines. However, the sentencing guidelines do not apply to probation violations. *People v Cotton*, 209 Mich App 82 83-84; 530 NW2d 495 (1995). Defendant discharged a firearm at the victim, who lost a kidney as a result. We conclude that defendant's sentence is proportionate to the seriousness of the circumstances surrounding the offense and the offender. See *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990)

Affirmed.

/s/ Helene N. White
/s/ Mark J. Cavanagh
/s/ John B. Bruff

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

