

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DOUGLAS RAY PAULL,

Defendant-Appellant.

UNPUBLISHED

May 13, 1997

No. 196724

Allegan Circuit Court

LC No. 91-8761 FC

Before: Corrigan, C.J., and Young and M.J. Talbot*, JJ.

MEMORANDUM.

Defendant's sentence is proportionate to the offense and offender, especially in light of the circumstances of the underlying offense, the leniency shown defendant under the terms of the underlying plea agreement, and the circumstances giving rise to defendant's probation violation. *People v Smith*, 195 Mich App 147; 489 NW2d 135 (1992). The sentence guidelines do not apply in the probation violation context, and any use of the guidelines in such circumstances would constitute a misapplication of a tool neither designed with probation violation in mind nor based on data which include probation violation sentences. *People v Edgett*, 220 Mich App 686; ___ NW2d ___ (1996).

Affirmed.

/s/ Maura D. Corrigan

/s/ Robert P. Young, Jr.

/s/ Michael J. Talbot

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