

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DOUGLAS FREDERICK STENKE,

Defendant-Appellant.

UNPUBLISHED
September 9, 1997

No. 193490
Grand Traverse Circuit Court
LC No. 95-006793 FH

Before: O'Connell, P.J., and White and C. F. Youngblood*, JJ.

MEMORANDUM.

Defendant appeals by right his conviction by jury of delivery of marijuana, MCL 333.7401(2); MSA 14.15(7401)(2), pursuant to which he received a sentence of two years' probation, with four months to be served in the county jail. On this appeal of right, he claims that his sentence is disproportionate to the offense and the offender.

Defendant's sentence is either within or below the sentence guideline range, and therefore presumptively proportionate. *People v Eberhardt*, 205 Mich App 587; 518 NW2d 511 (1994). In light of defendant's prior record of two misdemeanors and the circumstances of the present offense, defendant has failed to overcome that presumption.

Affirmed.

/s/ Peter D. O'Connell
/s/ Helene N. White
/s/ Carole F. Youngblood

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