

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JUSTIN S. PINES,

Defendant-Appellee.

UNPUBLISHED

November 25, 1997

No. 200370

Oakland Circuit Court

LC No. 95-139984 FH

Before: McDonald, P.J., and Wahls and J. R. Weber*, JJ.

MEMORANDUM.

The Oakland County Prosecutor, by delayed leave to appeal granted, challenges the action of the Oakland Circuit Court in according defendant Youthful Trainee Act status, MCL 762.11 *et seq.*; MSA 28.853(11) *et seq.* This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The prosecutor acknowledges that the decision to place defendant on Youthful Trainee status is reviewed for abuse of discretion. *People v Bobek*, 217 Mich App 524, 530-532; 553 NW2d 18 (1996). In a sentencing case, this review standard requires the appellate court to conclude, in order to find an abuse of discretion, that “no reasonable sentencer” would have acted as did the actual sentencing judge. *People v Merriweather*, 447 Mich 799, 807; 527 NW2d 460 (1994).

Here, the prosecutor notes that defendant had a juvenile adjudication for being an accessory after the fact to the breaking and entering of a motor vehicle, for which defendant received juvenile probation. He apparently successfully completed that probation, but upon becoming an adult received Youthful Trainee status in exchange for his guilty plea to carrying a concealed weapon. Defendant was still on Youthful Trainee status when he smashed the window of a motor vehicle with a crow bar, generating the present charge of malicious destruction of property over \$100. In granting Youthful Trainee status in this case, the trial judge, as a condition of defendant’s probation, sentenced him to the Special Alternative Incarceration Program (“boot camp”), MCL 771.3b; MSA 28.1133(2). It appears that this was defendant’s

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

first significant punitive sanction arising from his contacts with the criminal justice system. We have recognized that such boot camp programs actually involve a greater degree of control and constriction of a defendant's activities than traditional imprisonment. See *People v Hite (After Remand)*, 200 Mich App 1; 503 NW2d 692 (1993).

We have little doubt that if the trial court in this case had rejected defendant's request for Youthful Trainee status, we would find no abuse of discretion. However, the facts of this case also allowed a reasonable sentencing judge to find that Youthful Trainee status, combined with a probationary term including participation in the Special Alternative Incarceration Program, were appropriate sanctions for defendant's conduct. We find no abuse of discretion.

Affirmed.

/s/ Gary R. McDonald

/s/ Myron H. Wahls

/s/ John R. Weber