

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

HENRY LEE WHITFIELD,

Defendant-Appellant.

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UNPUBLISHED

February 17, 1998

No. 198273

Kent Circuit Court

LC No. 95-000999 FH

Before: Michael J. Kelly, P.J., and Fitzgerald and M.G. Harrison\*, JJ.

MEMORANDUM.

Defendant pleaded guilty to possession of less than 25 grams of cocaine, MCL 333.7403(1) and (2)(a)(v); MSA 14.15(7403)(1) and (2)(a)(v), and was sentenced to two years' probation. Following a contested hearing, the trial court determined that defendant had violated the conditions of his probation by imbibing intoxicants and sentenced defendant to two to four years' imprisonment. Defendant appeals as of right. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

The prosecutor bears the burden of establishing a probation violation by a preponderance of the evidence; the rules of evidence other than those concerning privileges do not apply. MCR 6.445(E)(1); *People v Ison*, 132 Mich App 61, 66; 346 NW2d 894 (1984).

Viewing the evidence in light most favorable to the prosecution, we conclude that a rational trier of fact could conclude that the preponderance of the evidence indicated that defendant had violated his probation. *People v Reynolds*, 195 Mich App 182, 184; 489 NW2d 128 (1992).

Affirmed.

/s/ Michael J. Kelly

/s/ E. Thomas Fitzgerald

/s/ Michael G. Harrison

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

