

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BENNIE THOMPSON, a/k/a BENNIE R.
THOMPSON, JR.,

Defendant-Appellant.

UNPUBLISHED

June 20, 1997

No. 196499

Genesee Circuit Court

LC No. 92-46325 FH

Before: Gage, P.J., and Reilly and Hoekstra, JJ.

MEMORANDUM.

On this appeal of right, defendant claims that his 3 to 20 year sentence for the underlying offense of delivery of cocaine under 50 grams and 8 month to 1 year sentence for use of cocaine, following defendant's guilty plea to violating his lifetime probation (and concurrent 2 year probation for use of cocaine) represents a disproportionate sentence in violation of *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). This case is being decided without oral argument pursuant to MCR 7.214(E).

Not only did defendant violate his probation by being convicted of new Michigan offenses, but while awaiting sentencing he absconded. During the period of fugitivity, defendant was indicted, convicted and sentenced in federal court on drug conspiracy charges, and as of the time of sentencing he had additional pending charges in Michigan involving making a false police report.

Defendant contends that his three year minimum sentence exceeds the original guideline range, but not only do the sentence guidelines have no application to probation violation sentencing, for which their use would be inappropriate, *People v Edgett*, 220 Mich App 686; ___ NW2d ___ (1996), but of course the original sentence guideline calculation failed to take into account defendant's subsequent criminal history. This Court finds no abuse of the trial court's sentencing discretion or disproportionality in a three to twenty year sentence. *People v Houston*, 448 Mich 312; 532 NW2d 508 (1995).

Affirmed.

/s/ Hilda R. Gage
/s/ Maureen Pulte Reilly
/s/ Joel P. Hoekstra