

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JEFFREY LEE McDONALD,

Defendant-Appellant.

UNPUBLISHED
December 9, 1997

No. 197673
Kalamazoo Circuit Court
LC No. 95-000834-FC

Before: Smolenski, P.J., and MacKenzie and Neff, JJ.

PER CURIAM.

Defendant originally pleaded guilty to assault with intent to rob while armed, MCL 750.89; MSA 28.284, and was sentenced to twelve months in jail and sixty months' probation. As a condition of his probation, defendant was ordered to complete the Special Alternative Incarceration program (also known as "boot camp"). Defendant began the SAI program on November 9, 1995 and voluntarily quit the program on January 10, 1996. He was subsequently convicted of violating probation and was sentenced to six to twenty years' imprisonment. Defendant appeals as of right. We affirm.

Defendant first argues that the evidence was insufficient to support his probation violation conviction. In reviewing this claim, this Court must consider whether, viewed in a light most favorable to the prosecution, the evidence is sufficient to enable a rational trier of fact to conclude that the charge was proven by a preponderance of the evidence. *People v Ison*, 132 Mich App 61, 66; 346 NW2d 894 (1984).

It was undisputed that defendant was ordered, as a condition of his probation, to successfully complete the SAI program. Defendant testified that, although he understood that failure to complete the program would result in a prison sentence, he decided to quit the program because he was denied needed medical attention at boot camp. However, other evidence established that even after an examination by a doctor at the county jail, antibiotic treatment, and diagnostic tests, there was no indication that the SAI medical staff had misdiagnosed defendant's condition or failed to treat him appropriately. The condition that was ultimately diagnosed, epidymitis, is suffered by approximately

twenty boot camp trainees per year and is one which does not result in medical termination. Further, defendant's boot camp file supported the court's conclusion that defendant was searching for an excuse not to participate in the SAI program. There were numerous documented incidents in which defendant failed to follow orders, acted and responded insubordinately, and stated that he was quitting. Defendant's supervising captain also testified that defendant was not successful in the program. Viewing this evidence in a light most favorable to the prosecution, the record supports the conclusion that the SAI staff provided appropriate and adequate medical treatment to defendant, and that a medical discharge was not warranted. Thus, there was sufficient evidence to support the trial court's finding of a probation violation.

Defendant next argues that his sentence violated the principle of proportionality. *People v Milbourn*, 435 Mich 630, 637; 461 NW2d 1 (1990). We disagree. Defendant was on probation at the time he committed the present offense. As noted by the trial court, defendant was an assaultive, dangerous individual who had been given opportunities to be on probation, but continued to commit violent crimes. Given defendant's inability to take advantage of the rehabilitative programs offered him, in addition to the seriousness and number of violent assaults he has committed, his sentence was not an abuse of discretion.

Affirmed.

/s/ Michael R. Smolenski
/s/ Barbara B. MacKenzie
/s/ Janet T. Neff