

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CARL ANDY COSTAGE,

Defendant-Appellant.

---

UNPUBLISHED

April 26, 1996

No. 179573

LC Nos. 94-004337;

94-004338

Before: Young, P.J., and Holbrook, Jr., and J.R. Ernst,\* JJ.

MEMORANDUM.

Defendant pleaded guilty in two separate files to bank robbery, MCL 750.531; MSA 799. He was sentenced to identical terms of eight to twenty years' imprisonment. Defendant appeals as of right. We affirm.

Defendant challenges the scoring of Offense Variable 1. In one file (No. 94-004338), the court assessed fifteen points for "firearm pointed toward victim." Defendant, the getaway driver, argues that he did not possess a gun and did not know that his cohorts would point their guns. Defendant acknowledges that the instructions to the guidelines compel the scoring assigned by the lower court, but argues that his due process rights were violated because he is being punished for the use of a gun for which he had no intent.

The sentencing guidelines are administrative tools to assist the sentencing court's exercise of discretion and convey no substantive rights. *People v Fisher*, 442 Mich 560, 582; 503 NW2d 50 (1993). Thus, the scoring of the variable does not implicate defendant's due process rights.

Although defendant also seeks relief in file 94-004337, in that file the court assigned only five points to Offense Variable 1. His statements at the plea indicate that defendant knew a co-defendant would threaten a bank teller, which suggests the use of a weapon.

---

\* Circuit Judge, sitting on the Court of Appeals by Assignment

Affirmed.

/s/ Robert P. Young, Jr.

/s/ Donald E. Holbrook

/s/ J. Richard Ernst