

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICCO T. HAYES,

Defendant-Appellant.

UNPUBLISHED

May 14, 1996

No. 182896

LC No. 92-121850-FH

Before: Michael J. Kelly, P.J., and Bandstra and S.B. Miller,* JJ.

PER CURIAM.

Defendant was convicted on December 23, 1993, of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401; MSA 14.15(7401). He was sentenced on July 12, 1993, to three to twenty years. He was also sentenced on another offense at the same time by the same judge of the Oakland Circuit Court. This conviction was the result of a guilty plea of March 23, 1993.

On appeal of the delivery conviction this Court remanded ten sentencing to the trial court as a presentence information report had not been prepared. At the resentencing on December 15, 1994, objections were made by defendant to inaccurate information in the updated report used at his resentencing. The court agreed not to consider the errors in the report at the resentencing however, the errors were not stricken from the report as required by *People v Britt*, 202Mich App 714; 509 NW2d 914 (1993).

The defendant's presentence report must have the inaccurate material deleted and corrected in accord with the record. As the court did not consider the incorrect information contained in the report when the sentence was imposed, resentencing is not necessary.

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

The conviction and sentence are affirmed. Remanded for correction of the PIR in accordance with the record. We do not retain jurisdiction.

/s/ Michael J. Kelly

/s/ Richard A. Bandstra

/s/ Stephen B. Miller