

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL DUANE SATKOWIAK,

Defendant-Appellant.

UNPUBLISHED

May 17, 1996

No. 185828

LC No. 95-051681-FH

Before: Kavanagh, T.G.,* P.J., and R.B. Burns** and G.S. Allen,** JJ.

MEMORANDUM.

Defendant pleaded guilty to burning a dwelling house, MCL 750.72; MSA 28.267, and was sentenced to eight to twenty years' imprisonment. Defendant appeals as of right. We affirm in part and remand in part. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

Defendant's remarks at sentencing were insufficient to require that the trial court hold an evidentiary hearing on restitution. However, because the record does not show that the trial court determined the amount of restitution in accordance with statutory requirements, we remand this case to the trial court for reconsideration of the order of restitution consistent with *People v Grant*, 210 Mich App 467; 534 NW2d 149 (1995), lv pending.

Defendant is not entitled to resentencing on any of the three grounds raised in his second issue. With regard to defendant's first claim, we hold that the trial court's failure to strike the challenged information in the presentence report, which was disregarded at sentencing, can be remedied by remanding the case to the trial court for a corrected presentence report. *People v Martinez (After Remand)*, 210 Mich App 199, 202-203; 532 NW2d 863 (1995), lv pending; *People v Britt*, 202

*Former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1995-1.

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Mich App 714, 718; 509 NW2d 914 (1993), MCR 6.425(D)(3). With regard to defendant's second claim, we find that defendant did not preserve a challenge to the scoring of Offense Variable 25 of the sentencing guidelines. MCR 6.429(C), *People v Malkowski*, 198 Mich App 610, 615; 499 NW2d 450 (1993). With regard to defendant's third claim, we hold, based on our review of the existing record, that defendant has not established grounds for resentencing on the basis of ineffective assistance of counsel. See *People v Pickens*, 446 Mich 298; 521 NW2d 797 (1994); *People v DiVietri*, 206 Mich App 61, 65; 520 NW2d 643 (1994); *People v Armendarez*, 188 Mich App 61, 74; 468 NW2d 893 (1991).

Affirmed in part and remanded in part for reconsideration of the order of restitution and for correction of the presentence report. No further jurisdiction.

/s/ Thomas G. Kavanagh

/s/ Robert B. Burns

/s/ Glenn S. Allen, Jr.