

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

UNPUBLISHED

August 30, 1996

Plaintiff-Appellee,

v

No. 155011

LC No. 92001495

LORENZO BECK,

Defendant-Appellant.

Before: Marilyn Kelly, P.J., and Gribbs and W.E. Collette,* JJ.

PER CURIAM.

Defendant was convicted following a bench trial of armed robbery and possession of a firearm during the commission of a felony. MCL 750.529; MSA 28.797, MCL 750.227b; MSA 28.424(2). The judge sentenced him to two years' imprisonment for the felony firearm conviction and consecutively to five to fifteen years on the armed robbery count.

Defendant appeals as of right, arguing that his jury trial waiver was invalid. He asserts that the prosecutor improperly interjected his personal opinion regarding the credibility of the complaining witness. He alleges that resentencing is required where the sentencing information report was incorrect and where the judge considered an invalid juvenile conviction. We affirm.

We find that defendant voluntarily and intelligently waived his right to a jury trial. MCR 6.402(B); *People v Shields*, 200 Mich App 554, 560; 504 NW2d 711 (1993); *People v Reddick*, 187 Mich App 547, 550; 468 NW2d 278 (1991). The record indicates that the judge advised him of his right to trial by jury. Defendant acknowledged that he understood that right and stated that he was voluntarily giving it up.

Reversible error did not result from the prosecutor's statement that he believed complainant to be a truthful witness. Reversal is required only if a prosecutor vouches for a witness' credibility to the extent that he has some special knowledge concerning a witness' truthfulness. *People v Bahoda*, 448 Mich 261, 276; 531 NW2d 659 (1995). The statement did not rise to that level here.

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

The judge properly scored 25 points for Offense Variable 2. The record contains evidence to support the finding that the complainant suffered a bodily injury. *People v Woods*, 204 Mich App 472; 517 NW2d 239 (1994); *People v Johnson*, 202 Mich App 281, 288-289; 508 NW2d 509 (1993).

Finally, defendant argues that the judge, in imposing sentence, considered invalid misdemeanor convictions entitling him to resentencing. We remanded this issue to the trial judge for his consideration. In a written opinion, he verified that he did not use the misdemeanors in fashioning the guidelines. The fact that PRV-5 was scored zero points reinforces that statement.

Defendant failed to establish that his 1978 juvenile conviction was obtained without counsel or without a proper waiver of counsel. *People v Carpentier*, 446 Mich 19, 31-32; 521 NW2d 195 (1994). The record indicates that defendant voluntarily waived his right to counsel. Therefore, the judge properly considered the conviction at sentencing.

Affirmed.

/s/ Marilyn Kelly

/s/ Roman S. Gibbs

/s/ William E. Collette