

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL GILBERT LETARTE,

Defendant-Appellant.

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UNPUBLISHED

October 1, 1996

No. 183419

LC No. 91-002221-FC

Before: J.H. Gillis, P.J., and G.S. Allen and J.B. Sullivan, JJ.\*

MEMORANDUM.

Defendant pleaded guilty of first-degree criminal sexual conduct, MCL 750.520b(1)(b); MSA 28.788(2)(1)(b), and was sentenced to fifteen to thirty years' imprisonment. In a prior appeal, this Court remanded for resentencing. Defendant was resentenced to ten to thirty years' imprisonment. He appeals by delayed application for leave to appeal. We again remand for resentencing. This case has been decided without oral argument pursuant to MCR 7.214(E)(1)(b).

At the resentencing hearing, the trial court failed to follow part of this Court's previous opinion which directed the court to resolve defendant's objections to the accuracy of information contained in the presentence investigation report (PSIR). The trial court only stated that it was disregarding the entire first PSIR. It is not clear if the court meant that it was simply ignoring the information defendant believed was objectionable. If the court decided to simply ignore the challenged information, it was required to strike the information from the PSIR as required by MCR 6.425(D)(3) and as ordered by this Court in its first opinion. Otherwise, the trial court failed to rule on defendant's objections to the PSIR. Because it appears that any proceedings on remand would be before the original trial judge's successor, we direct the trial court to conduct a new resentencing hearing.

At resentencing, the trial court shall allow defendant the opportunity to place his objections to the accuracy of the first PSIR on the record and the trial court should either conduct an evidentiary

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\*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-3.

hearing on the accuracy of the challenged information, accept defendant's statements as true, or ignore the challenged information. If the court accepts defendant's statements, ignores the challenged information or finds that any of the information is inaccurate, it should correct the specific portions of the PSIR by deleting or correcting the information. MCR 6.425(D)(3)(a). A corrected copy of the original PSIR should be forwarded for the Department of Corrections after defense counsel has first been provided an opportunity to review the corrected report. MCR 6.425(D)(3)(b); *People v Britt*, 202 Mich App 714, 718; 509 NW2d 914 (1993).

Remanded for resentencing. We do not retain jurisdiction.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan