

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARK D. MARVIN,

Defendant-Appellant.

UNPUBLISHED

October 8, 1996

No. 182250

LC No. 94-135431-FH

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

MEMORANDUM.

Defendant pleaded guilty to operating a vehicle while under the influence of intoxicating liquor, third offense, MCL 257.625(6)(d); MSA 9.2325(6)(d), operating a motor vehicle with a suspended license, second offense, MCL 257.904(1)(c); MSA 9.2604(1)(c), and habitual offender, fourth offense, MCL 769.12; MSA 28.1084. He was sentenced to a single term of two to twenty years' imprisonment, and now appeals as of right. We affirm defendant's convictions and sentence but remand for correction of the presentence investigation report. This case has been decided without oral argument pursuant to MCR 7.214(A).

On appeal, defendant raises new challenges to the accuracy of information contained in the presentence investigation report (PSIR) that were not raised below. An objection must be raised at the time of sentencing or the matter is waived. *People v Sharp*, 192 Mich App 501, 504-505; 481 NW2d 773 (1992). Because defendant failed to ask the court to attach letters written on his behalf to the PSIR at the time of sentencing the claim is not preserved for appellate review. In any event, the record indicates that the letters were all written months after defendant was sentenced.

Despite defendant's failure to object to the accuracy of the PSIR at the time of sentencing, the trial court later granted his request to delete a sentence from the report because it was found to be inaccurate. That sentence addressed whether there was an outstanding warrant against defendant for a

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

probation violation. The court specifically ordered that only one sentence from the report be deleted. On appeal, defendant argues that another sentence on the same subject should have also been deleted. We agree, but only for the sake of the report's clarity. Therefore, we remand the matter with directions to the trial court to strike from the PSIR the other sentence on page two of the report concerning an alleged probation violation. A corrected copy shall be forwarded to the Department of Corrections after defense counsel has had an opportunity review the report. Because this is merely a clerical correction to the report, defendant is not entitled to be resentenced.

Defendant next argues that his trial counsel did not review the PSIR with him before sentencing. However, defense counsel informed the court before sentencing that he had reviewed the report with defendant. Thus, there is no support in the record for defendant's claim of ineffective assistance of counsel when he has not offered any proof that his counsel's statement to the court was untrue. *People v Pickens*, 446 Mich 298, 338; 521 NW2d 797 (1994).

Defendant's convictions and sentence are affirmed, but the matter is remanded for the correction of the PSIR.

/s/ John H. Gillis

/s/ Glenn S. Allen, Jr.

/s/ Joseph B. Sullivan