

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

KENNETH ALLEN ROMEO,

Defendant-Appellant.

UNPUBLISHED
February 28, 1997

No. 185329
Washtenaw Circuit
LC Nos. 91-026445 FH;
94-003323 FH;
94-003424 FH;
94-003522 FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

The instant appeal arises from convictions obtained in four separate lower court criminal actions. In lower court docket no. 91-026445-FH, defendant pleaded guilty to violating probation on an underlying conviction of receiving or concealing stolen property over \$100, MCL 750.535; MSA 28.803. In lower court docket no. 94-003323-FH, defendant pleaded guilty to larceny over \$100, MCL 750.356; MSA 28.588. In lower court docket no. 94-003424-H, defendant pleaded guilty to uttering and publishing, MCL 750.249; MSA 28.446. In lower court docket no. 94-003522-FH, defendant pleaded guilty to unauthorized use of a financial transaction device, MCL 750.157n(1); MSA 28.354(14)(1). Defendant was sentenced to two to five years' imprisonment on the probation violation, two to five years' imprisonment on the larceny conviction, two to fourteen years' imprisonment on the uttering and publishing conviction and one-and-a-half to four years' imprisonment on the unauthorized use of a financial transaction device conviction. The sentences for the probation violation, the larceny,

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

and uttering and publishing convictions are to be served concurrently. The remaining sentence is to be served consecutively and subsequently to the other three sentences. Defendant appeals as of right. We affirm defendant's convictions and sentences, but remand for correction of the presentence investigation report (PSIR). These cases have been decided without oral argument pursuant to MCR 7.214(A).

The sentencing court did not err in failing to conduct an evidentiary hearing in response to defendant's challenge to the amount of restitution recommended in the PSIR prepared in docket no. 91-026445-FH. The court was not required to conduct a hearing where defendant neither requested a hearing nor provided the court with evidence in support of another figure. *People v Grant*, 210 Mich App 467, 471; 534 NW2d 149 (1995).

The court also did not err when it failed to strike from the PSIR prepared in docket nos. 94-003323-FH and 94-003424-FH the statement that defendant had four felony convictions. Defendant failed to demonstrate that the statement was inaccurate. The court did err, however, when it failed to strike information from the PSIR which it determined to be irrelevant in response to defendant's accuracy challenge. *People v Martinez (After Remand)*, 210 Mich App 199, 202-203; 532 NW2d 863 (1995). Accordingly, we remand to permit the sentencing court to undertake the administrative task of correcting the PSIR to conform to its responses to defendant's accuracy challenges. The court shall forward a corrected copy of the report to the Department of Corrections. *Id.*, 203.

Defendant's convictions and sentences are affirmed, but the case is remanded for correction of the PSIR. We do not retain jurisdiction.

/s/ Daniel F. Walsh
/s/ Robert P. Griffin
/s/ Walter P. Cynar