

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

STEVEN GALLEGOS,

Defendant-Appellant.

UNPUBLISHED

March 7, 1997

No. 179690

Ottawa Circuit

LC Nos. 91-015983-FC;

91-015984-FC

Before: Michael J. Kelly, P.J., and Smolenski and W.J. Giovan,* JJ.

MEMORANDUM.

Defendant pleaded guilty to first-degree criminal sexual conduct, MCL 750.520b; MSA 28.788(2), kidnapping, MCL 750.349; MSA 28.581, and attempted kidnapping, MCL 750.92; MSA 28.287 and MCL 750.349; MSA 28.581. He was sentenced to concurrent terms of twenty-five to fifty years' imprisonment for both the CSC I and kidnapping convictions, and three to five years' imprisonment for the attempted kidnapping conviction. In a prior appeal, this Court remanded for, among other things, resolution of defendant's challenge to information in the presentence investigation report (PSIR). *People v Gallegos*, unpublished opinion per curiam of the Court of Appeals, decided February 9, 1994 (Docket No. 152676). On remand, the trial court denied resentencing, ruling that it had not considered the challenged information in its sentencing decision but ordered that the information be stricken from the PSIR and that a new copy thereof be forwarded to the Department of Corrections. Defendant appeals as of right from that decision. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Defendant is not entitled to resentencing. *People v Martinez (After Remand)*, 210 Mich App 199, 202-203; 532 NW2d 863 (1995). Because the trial court determined that the challenged information played no part in the sentencing decision, the court properly affirmed defendant's sentence and struck the information from the PSIR. *Id.*; *People v Landis*, 197 Mich App 217, 219; 494 NW2d 865 (1992); *People v Thompson*, 189 Mich App 85, 88; 472 NW2d 11 (1991); *People v*

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

Newson (After Remand), 187 Mich App 447, 450; 468 NW2d 249 (1991), vacated in part on other grounds 437 Mich 1054 (1991). See also *People v Fisher*, 442 Mich 560, 567 n 4; 503 NW2d 50 (1993). Defendant was afforded all the relief to which he was entitled where the court ordered that the disputed information be stricken from the PSIR and that a corrected copy be transmitted to the Department of Corrections. MCL 771.14(5); MSA 28.1144(5), MCR 6.425(D)(3), *Martinez, supra*.

Affirmed.

/s/ Michael J. Kelly

/s/ Michael R. Smolenski

/s/ William J. Giovan