

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CATHY ANN YEARBY,

Defendant-Appellant.

UNPUBLISHED

March 28, 1997

No. 188725

Genesee Circuit Court

LC No. 92-046361-FC

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

MEMORANDUM.

Defendant pleaded guilty to violating probation on her underlying conviction of involuntary manslaughter, MCL 750.321; MSA 28.553, and was sentenced to five to fifteen years' imprisonment. She appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

We reject defendant's claim that she is entitled to resentencing because the trial court allegedly failed to "deal with" her challenges to allegedly inaccurate information contained in the presentence investigation report (PSIR). At the hearing on defendant's motion for resentencing, the trial court indicated that it did not consider the challenged information at sentencing. Hence, the court's failure to strike the challenged information was, at most, harmless error. *People v Fisher*, 442 Mich 560, 567 n 4; 503 NW2d 50 (1993); *People v Martinez (After Remand)*, 210 Mich App 199, 202-203; 532 NW2d 863 (1995). Additionally, because the challenged information has already been stricken from the PSIR, we need not remand this matter for the preparation of a corrected PSIR. MCR 6.425(D)(3).

*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.

Next, considering the circumstances surrounding the offender, the underlying offense, and the probation violation, defendant's sentence does not violate the principle of proportionality. *People v Milbourn*, 435 Mich 630, 651; 461 NW2d 1 (1990); *People v Cotton*, 209 Mich App 82, 84-85; 530 NW2d 495 (1995).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar