

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY EARL FIELDS,

Defendant-Appellant.

UNPUBLISHED

July 11, 1997

No. 190057

Genesee Circuit Court

LC No. 94-051432 FH

Before: Cavanagh, P.J., and Doctoroff and D.A. Teeple*, JJ.

MEMORANDUM.

Defendant pleaded guilty to possession of less than 25 grams of cocaine, MCL 333.7403(1) and (2)(a)(v); MSA 14.15(7403)(1) and (2)(a)(v), and fleeing and eluding, MCL 257.602a; MSA 9.2302(1). He was sentenced to five years' probation. Defendant subsequently pleaded guilty to violating the terms of his probation and received prison sentences of thirty-two to forty-eight months' on the underlying possession conviction and to eight to twelve months'¹ on the underlying fleeing and eluding conviction. Defendant appeals as of right. We affirm.

Defendant's thirty-two-month minimum sentence is proportionate to the circumstances of the offense and the offender. *People v Hardy*, 212 Mich App 318, 321; 537 NW2d 267 (1995); *People v Reynolds*, 195 Mich App 182, 184-185; 489 NW2d 128 (1992). Moreover, defendant has failed to demonstrate on the instant record that counsel rendered ineffective assistance at sentencing. *People v Messenger*, 221 Mich App 171,181-182; 561 NW2d 463 (1997); *People v Hedelsky*, 162 Mich App 382, 387; 412 NW2d 746 (1987). Finally, although the trial court failed to resolve defendant's claims of inaccuracies in the presentence investigation report, we need not remand because the record does not reflect that the trial court considered the challenged information when fashioning defendant's sentence. *People v Daniels*, 192 Mich App 658, 675-676; 482 NW2d 176 (1992).

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

Affirmed.

/s/ Mark J. Cavanagh
/s/ Martin M. Doctoroff
/s/ Donald A. Teeple

¹ The trial court erred in imposing an indeterminate sentence on the fleeing and eluding conviction because an indeterminate sentence may not be imposed where the maximum penalty for an offense is one year or less. *People v Leonard*, 51 Mich App 368, 369-370; 214 NW2d 888 (1974). We would remand for resentencing on this conviction, but it appears that defendant has already served the sentence.