

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

GEORGE PAUL DRINKWINE,

Defendant-Appellant.

UNPUBLISHED

October 7, 1997

No. 171775

Genesee Circuit Court

LC No. 93-048681 FH

Before: Doctoroff, P.J., and Cavanagh and Saad, J.J.

MEMORANDUM.

Defendant pleaded guilty to first-degree retail fraud, MCL 750.356c; MSA 28.588(3), and received an enhanced sentence of thirty-two to forty-eight months imprisonment, reflecting his status as a fourth offender, MCL 769.12; MSA 28.1084. Defendant appeals as of right. We affirm.

Although the trial court failed to resolve defendant's claims of inaccuracy in the presentence investigation report, we need not remand because the record fails to 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 (1991).

Defendant failed to meet his initial burden of proof that his juvenile convictions were secured without representation of counsel. *People v Carpentier*, 446 Mich 19, 31; 521 NW2d 195 (1994). Accordingly, the trial court could properly rely on defendant's prior juvenile record when fashioning defendant's sentence, even though the court initially indicated that it would not rely on the juvenile record. *People v Jones*, 173 Mich App 341, 343; 433 NW2d 829 (1988).

Finally, defendant is not entitled to resentencing where the trial court failed to amend the presentence investigation report to include certain additional circumstances surrounding the commission of the instant offense. Defendant cannot be said to have sustained prejudice where defense counsel was given the opportunity to inform the court of these circumstances during allocution on defendant's behalf. MCR 6.425(D)(2)(c); *People v Westbrook*, 188 Mich App 615; 470 NW2d 495 (1991).

Affirmed.

/s/ Martin M. Doctoroff

/s/ Mark J. Cavanagh

/s/ Henry W. Saad