

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MARVIN CORNEL JORDAN,

Defendant-Appellant.

UNPUBLISHED

December 16, 1997

No. 195717

Genesee Circuit Court

LC No. 95-052768 FC

Before: McDonald, P.J., and Wahls and J. R. Weber*, JJ.

MEMORANDUM.

After being convicted in a jury trial of manslaughter, MCL 750.321; MSA 28.553, defendant was sentenced to seven to fifteen years' imprisonment. On this appeal of right, he claims the trial court erred in scoring offense variables 3 and 7 while calculating the sentence guideline range. This case is being decided without oral argument pursuant to MCR 7.214(E).

Scoring challenges of this type are simply not cognizable as a basis for appellate relief. *People v Mitchell*, 454 Mich 145, 170; 560 NW2d 600 (1997). In any event, where witnesses, immediately before the victim was fatally stabbed to death by defendant, saw the victim facing defendant, backing away, with his hands raised and palms open and facing forward, stating that he did not wish to fight with defendant, the trial court's scoring is well within its discretion.

Affirmed.

/s/ Gary R. McDonald

/s/ Myron H. Wahls

/s/ John R. Weber

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