

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT SIMPSON,

Defendant-Appellant.

UNPUBLISHED

August 2, 2005

No. 253183

Wayne Circuit Court

LC No. 01-010433-01

Before: Borrello, P.J. and Bandstra and Kelly, JJ.

MEMORANDUM.

Defendant appeals as of right his sentence of fifteen to forty years in prison imposed on remand for a conviction of assault with intent to rob while armed, MCL 750.89. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant's argues that he is entitled to resentencing because the trial court failed to ensure that he was afforded a meaningful opportunity to review, discuss, or challenge the information in the presentence report, particularly the sentencing information report (SIR). We disagree.

First, the record belies defendant's claim. The updated presentence report included an SIR, and defense counsel advised the trial court that he and defendant had an opportunity to review the report together. Defendant did not challenge or seek to modify the information in the report, which is therefore presumed accurate and was properly relied on by the trial court. *People v Grant*, 455 Mich 221, 233-234; 565 NW2d 389 (1997). Second, where, as here, defendant's sentence is within the applicable guidelines range, the sentence must be affirmed unless there was an error in scoring the guidelines. MCL 769.34(10). A scoring error can be reviewed only if (1) it would change the appropriate guidelines range, or (2) it would not change the appropriate guidelines range, but the issue was raised below. *People v Kimble*, 470 Mich 305, 310-311; 684 NW2d 669 (2004). Defendant has not identified any error in the scoring of the guidelines, and thus his sentence must be affirmed. MCL 769.34(10).

Affirmed.

/s/ Stephen L. Borrello
/s/ Richard A. Bandstra
/s/ Kirsten Frank Kelly