

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ULYSSES WYNN,

Defendant-Appellant.

UNPUBLISHED

April 29, 2008

No. 277619

Wayne Circuit Court

LC No. 05-006850-01

Before: Bandstra, P.J., and Fitzgerald and Markey, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of third-degree criminal sexual conduct, MCL 750.520d(1)(b), and two counts of fourth-degree criminal sexual conduct, MCL 750.520e(1)(a). He was sentenced to concurrent prison terms of 10 to 15 years for the third-degree CSC conviction and one to two years for each fourth-degree CSC conviction. In a prior appeal, this Court vacated defendant's sentences and remanded for resentencing because of an error in the scoring of the guidelines. *People v Wynn*, unpublished order of the Court of Appeals, entered February 12, 2007 (Docket No. 267578). Defendant was thereafter resentenced to the same terms originally imposed. Defendant again appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

In the interview portion of the original presentence report, defendant maintained that "[n]othing happened." The interview portion of the updated presentence report referred to the original report. At defendant's resentencing, defense counsel indicated that he had reviewed the updated presentence report and stated, "I don't see any substantive changes and, therefore, have no objections to it." During his allocution, defendant admitted that what he did "was wrong" and that he was "truly sorry." Defendant now argues that he is entitled to be resentenced because the updated presentence report was inaccurate, in that it failed to disclose that he had accepted responsibility for his actions and expressed remorse.

If a minimum sentence is within the appropriate guidelines range, this Court must affirm the sentence on appeal unless the trial court erred in scoring the guidelines or relied on inaccurate information in determining the defendant's sentence. MCL 769.34(10). Additionally, a party may not raise on appeal an issue challenging the scoring of the guidelines or the accuracy of information relied upon in determining a sentence that is within the appropriate guidelines range unless the party has raised the issue at sentencing, in a proper motion for resentencing, or in a proper motion to remand. MCL 769.34(10); MCR 6.429(C).

Defendant's sentence is within the appropriate guidelines range. Because defendant did not object to the accuracy of the updated presentence report at his resentencing hearing, or raise this issue in a motion for resentencing or motion to remand, the issue is not subject to review by this Court. *People v Kimble*, 470 Mich 305, 310-311; 684 NW2d 669 (2004); *People v Francisco*, 474 Mich 82, 91 n 8; 711 NW2d 44 (2006). In any event, there is no merit to defendant's claim that the trial court was unaware that he had acknowledged his responsibility and culpability for the crime. Defendant informed the court at sentencing that what he did was wrong and that he was truly sorry. Because there was no scoring error or reliance on inaccurate information, resentencing is not warranted. MCL 769.34(10).

We affirm.

/s/ Richard A. Bandstra
/s/ E. Thomas Fitzgerald
/s/ Jane E. Markey