

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ANTONIO MICHAEL FLORA,

Defendant-Appellant.

UNPUBLISHED
November 1, 2005

No. 254667
Washtenaw Circuit Court
LC No. 03-000759-FC

Before: Gage, P.J., and Hoekstra, and Murray, JJ.

MEMORANDUM.

Defendant appeals as of right his sentence of ten to twenty-five years in prison for armed robbery, MCL 750.529, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Complainant maintained that two males robbed him at gunpoint while he was delivering a pizza for his employer. As he entered the elevator in an apartment building in Ypsilanti, the two individuals joined him. One of the men, whom complainant identified as defendant, pointed a handgun at him. The second man searched his pockets and removed his pizza delivery money, totaling approximately \$200. Defendant's accomplice took complainant's pizza delivery bag.

Defendant challenges two sentence scoring decisions made by the trial court. "A sentencing court has discretion in determining the number of points to be scored, provided that evidence of record adequately supports a particular score." *People v Hornsby*, 251 Mich App 462, 468; 650 NW2d 700 (2002). "Scoring decisions for which there is any evidence in support will be upheld." *Id.*, quoting *People v Elliott*, 215 Mich App 259, 260; 544 NW2d 748 (1996).

Defendant maintains that the trial court erred when it scored Offense Variable (OV) 14 at ten points after determining that the prosecutor presented sufficient evidence that he played a leadership role in the robbery. MCL 777.44. He maintains that the evidence could have supported a finding that the other individual who participated in the robbery was the leader because he took the money from complainant and was a local resident who knew "the lay of the land."

Defendant was significantly older than his accomplice, who was a minor at the time of the robbery. The record supports a finding that defendant obtained the weapon used in this offense and actually initiated the robbery by pointing the weapon at complainant. Also,

defendant's alleged unfamiliarity with the area is not supported by the testimony of his acquaintances. The prosecutor presented evidence that defendant was the instigator of this crime; therefore, the trial court properly scored OV 14 at ten points.

During sentencing, defendant also challenged the scoring of Prior Record Variable (PRV) 3 (prior high severity juvenile adjudications) at fifty points and PRV 4 (prior low severity juvenile adjudications) at twenty points. MCL 777.53; MCL 777.54. Defendant maintains that the prosecutor did not meet his burden of demonstrating that the records provided by Ohio authorities were of crimes that he actually committed. We have reviewed these records in detail, and find that although they contain minor discrepancies, the information contained therein supports the trial court's finding that the records memorialize offenses committed by defendant. Defendant has not shown that the trial court clearly erred when it scored PRV 3 at fifty points and PRV 4 at twenty points.

Affirmed.

/s/ Hilda R. Gage
/s/ Joel P. Hoekstra
/s/ Christopher M. Murray