

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DARNELL C. PARAMORE,

Defendant-Appellant.

UNPUBLISHED

September 14, 2004

No. 247137

Wayne Circuit Court

LC No. 02-010819-01

Before: Donofrio, P.J. and White and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right his sentences for his convictions of felon in possession of a firearm, MCL 750.224f, carrying a concealed weapon, MCL 750.227, and possession of a firearm during the commission of a felony, second offense, MCL 750.227b, entered after a jury trial. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

At the original sentencing hearing the clerk informed the trial court that an error existed in the presentence report regarding defendant's habitual status. Although the parties announced their agreement with the presentence report, the trial court adjourned the proceedings in order to allow the guidelines to be recalculated. At the continued hearing the trial court informed the parties that the sentencing guidelines were still incorrect, and requested that the parties review the presentence report, the sentencing information report, and agree on the guidelines. The parties came to agreement. Thereafter, the trial court sentenced defendant as a second habitual offender to concurrent terms of twenty-three months to ten years for carrying a concealed weapon and felon in possession of a firearm, and to a consecutive five-year term for felony-firearm, second offense. The minimum terms of twenty-three months were within the recalculated guidelines.

The trial court must allow the prosecutor, defense counsel, and the defendant to review the presentence report prior to sentencing. MCR 6.425(B). At sentencing, the trial court must verify on the record that the parties have had an opportunity to review the report, give each party an opportunity to explain or challenge any information in the report, and give counsel, the defendant, and the victim an opportunity to inform the court of any factors they believe should be considered. MCR 6.425(D)(2)(a)-(c).

Defendant argues that he is entitled to resentencing because during the second phase of the sentencing hearing the trial court did not verify on the record that he was given an

opportunity to review the presentence report as required by MCR 6.425(D)(2)(a). We disagree and affirm defendant's sentences. Significantly, defendant does not allege that he was not afforded the opportunity to review the report during the second phase of the hearing, and does not point to any information in the report that he would have contended was inaccurate. In the first phase of the hearing defendant and counsel reviewed the presentence report, and indicated on the record that they had no additions or corrections to make to the report. The record does not indicate that any factual information was changed during the second phase of the hearing when the parties recalculated the guidelines. We conclude that when the hearings are viewed as a whole defendant was not denied the opportunity to review the presentence report, MCR 6.425(D)(2)(a), and is not entitled to be resentenced.

Affirmed.

/s/ Pat M. Donofrio
/s/ Helene N. White
/s/ Michael J. Talbot