

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAQUWANNE TERRIL RUTLEY,

Defendant-Appellant.

UNPUBLISHED
November 30, 2010

No. 291682
Washtenaw Circuit Court
LC No. 08-000671-FC

Before: BORRELLO, P.J., and JANSEN and BANDSTRA, JJ.

BANDSTRA, J. (*concurring*).

I concur with the majority opinion and its decision to affirm but write separately with respect to defendant's argument that offense variable (OV) 1 was improperly scored. As to that issue, I would affirm because defense counsel requested that OV 1 be scored at 10 points and cannot properly now benefit from a claim that, by acquiescing to that request, the trial court committed error. *Lewis v Legrow*, 258 Mich App 175, 210; 670 NW2d 675 (2003). Thus, we need not reach the merits of defendant's argument in this regard.

/s/ Richard A. Bandstra