

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT ERNEST WALL,

Defendant-Appellant.

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UNPUBLISHED

January 24, 1997

No. 185446

LC No. 93-012942-FH

Before: Michael J. Kelly, P.J. and Saad and H.A. Beach,\* JJ.

MEMORANDUM.

Pursuant to a plea agreement, defendant pleaded guilty to prison escape, MCL 750.193; MSA 28.290, and habitual offender, third offense, MCL 769.11; MSA 28.1084. In exchange, the prosecutor agreed to recommend a six month cap on defendant's minimum sentence. Defendant was then sentenced to six months to ten years' imprisonment. He now appeals as of right. We affirm.

We reject defendant's claim that in spite of the fact that he requested immediate sentencing using a presentence report prepared approximately eight months prior to sentencing in this case, the trial court should have ordered an updated presentence report prior to sentencing. Because defendant does not specify what he considers a "substantial change in attitude" and because he offers no support for his assertion that he enjoyed a positive change of attitude in the eight months that passed between the imposition of the underlying sentence and his sentence for prison escape in this case<sup>1</sup>, the May 23, 1994 presentence report utilized by the trial judge in sentencing defendant in this case does not appear to be stale. There are simply insufficient allegations of changed circumstances in this case to indicate that the May 23, 1994 presentence report was not reasonably current. Hence, defendant's waiver of an updated presentence report is valid. *People v Hemphill*, 439 Mich 576; 487 NW2d 152 (1992).

Affirmed.

/s/ Michael J. Kelly  
/s/ Henry William Saad  
/s/ Harry A. Beach

<sup>1</sup> In fact, defendant's instant conviction for prison escape seems to indicate that defendant did not enjoy a substantial positive change of attitude while in prison.