

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JESSE SMITH,

Defendant-Appellant.

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UNPUBLISHED

February 28, 1997

No. 177146

Recorder's Court

LC No. 75-008540

Before: Fitzgerald, P.J., and Griffin and M.R. Knoblock,\* JJ.

MEMORANDUM.

Defendant appeals by leave granted from the trial court order denying his motion for relief from judgment pursuant to MCR 6.502. Defendant had pleaded guilty to second-degree murder, MCL 750.317; MSA 28.549, for which he was sentenced to life imprisonment. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

The trial court's use of a four-year-old presentence investigation report does not require resentencing in light of the availability of the institutional report and the opportunity afforded defendant to apprise the trial court of any new information. See *People v Hemphill*, 439 Mich 576, 582; 487 NW2d 152 (1992).

Affirmed.

/s/ E. Thomas Fitzgerald

/s/ Richard Allen Griffin

/s/ M. Richard Knoblock

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\* Circuit judge, sitting on the Court of Appeals by assignment.