

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL ALLEN SMITH,

Defendant-Appellant.

UNPUBLISHED

March 25, 1997

No. 186127

Ingham Circuit Court

LC No. 95-068439-FH

Before: D.F. Walsh,* P.J., and R.P. Griffin** and W.P. Cynar,* JJ.

MEMORANDUM.

Defendant pleaded guilty to second-degree home invasion, MCL 750.110a(3); MSA 28.305(a)(3), and was sentenced to four to fifteen years' imprisonment. He appeals as of right. We affirm his conviction and sentence, but remand for correction of the presentence report. This case has been decided without oral argument pursuant to MCR 7.214(A).

Because the trial court clearly and unambiguously indicated at sentencing that it was not considering the alleged inaccuracy that defendant was ever AWOL from Boysville or Yorkwoods, we remand the case to the trial court solely for the purpose of striking the alleged inaccuracy from the presentence report. *People v Hoyt*, 185 Mich App 531, 533; 462 NW2d 793 (1990); *People v Taylor*, 146 Mich App 203, 205-206; 380 NW2d 47 (1985). However, the trial court did not err in scoring ten points for Offense Variable 9 and five points for Offense Variable 17. There was adequate evidence supporting those scoring decisions. *People v Daniels*, 192 Mich App 658, 674; 482 NW2d 176 (1992). Finally, the instant sentence is to be served consecutive to the sentence that defendant was serving at the time of the offense in accordance with *Wayne Co Prosecutor v Dep't of Corrections*, 451 Mich 569; 548 NW2d 900 (1996).

*Former Court of Appeals judges, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

**Former Supreme Court justice, sitting on the Court of Appeals by assignment pursuant to Administrative Order 1996-10.

Defendant's conviction and sentence are affirmed, but the matter is remanded for correction of the presentence report. Jurisdiction is not retained.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar