

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MICHAEL MCCULLOUGH,

Defendant-Appellant.

UNPUBLISHED

March 28, 1997

No. 188029

Oakland Circuit Court

LC No. 94-136809-FH

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

MEMORANDUM.

Defendant pleaded nolo contendere to felonious assault (two counts), MCL 750.82; MSA 28.277, and failing to obey a police officer's signal, MCL 750.479a; MSA 28.747(1), second-degree retail fraud, MCL 750.356d; MSA 28.588(4), and habitual offender, fourth offense, MCL 769.12; MSA 28.1084. He was sentenced to concurrent terms of thirty-two to forty-eight months' imprisonment for the felonious assault convictions, as habitualized, one year in jail for failing to obey a police officer's signal, and ninety days in jail for the retail fraud conviction. He appeals as of right. We affirm. This case has been decided without oral argument pursuant to MCR 7.214(A).

Although the trial court failed to comply with MCR 6.425(D)(2)(a) and (b), defendant does not allege on appeal that he did not in fact have an opportunity to read and discuss the presentence report with his attorney, nor does he allege that the presentence report contained any inaccurate or irrelevant information. Furthermore, defendant was sentenced in accordance with a plea-based sentence agreement under *People v Cobbs*, 443 Mich 276; 505 NW2d 208 (1993). Accordingly, we find that any error was harmless. Cf. *People v Fischer*, 442 Mich 560, 567, n 4; 503 NW2d 50 (1993);

*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.

People v Martinez (After Remand), 210 Mich App 199, 202-203; 532 NW2d 863 (1995); *People v Daniels*, 192 Mich App 658, 675; 482 NW2d 176 (1992).

Affirmed.

/s/ Daniel F. Walsh

/s/ Robert P. Griffin

/s/ Walter P. Cynar