

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ARNOLD L. JONES,

Defendant-Appellant.

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UNPUBLISHED

February 9, 1999

No. 196031

Recorder's Court

LC No. 96-000638

Before: Gage, P.J., and MacKenzie and White, JJ.

PER CURIAM.

Defendant appeals as of right from his bench trial convictions for felonious assault, MCL 750.82; MSA 28.277, possession of a firearm during the commission of a felony, MCL 750.227b; MSA 28.424(2), and domestic violence, MCL 750.81(2); MSA 28.276(2). Defendant was sentenced to one to four years in prison for the felonious assault conviction, two years for the felony-firearm conviction, and ninety-three days for the domestic violence conviction. The felonious assault and domestic violence sentences are to run concurrently with each other but consecutively to the felony-firearm sentence. We affirm.

Defendant's sole issue on appeal is that the Sentencing Information Report (SIR) contained improperly scored prior record and offense variables. Prior record variable five was corrected by the trial judge at defendant's motion for resentencing hearing and, therefore, we need not address this aspect of defendant's argument. MCR 7.203 (A)(1). Defendant claims that offense variable two (OV 2) and offense variable six (OV 6) were incorrectly scored because there was only one victim of the felonious assault and that victim was not physically injured.

Sentencing guidelines are not legislatively mandated; therefore, cognizable appellate claims are limited to those challenging the factual basis for the sentence or the proportionality of the sentence imposed. *People v Mitchell*, 454 Mich 145, 175, 176-177; 560 NW2d 600 (1997). This Court does not interpret the guidelines or rescore variables. *Id.*, p 178. Consequently, defendant does not state a cognizable claim for relief because defendant's challenge to the scoring of the guidelines is not aimed at the factual basis of the scoring of the variables but, rather, at the trial court's interpretation and/or application of the sentencing guidelines. *Id.*, pp. 176-177. This Court has no authority to

rescore these variables and, since defendant does not claim that his sentence is disproportionate, we affirm the sentence imposed. *People v Winters*, 225 Mich App 718, 729-730; 571 NW2d 764 (1997). Even if defendant had asserted a viable claim on appeal, it would fail because the scoring of the offense variables was sufficiently supported by facts that were proven by a preponderance of the evidence and his sentence was proportionate to the severity of the crime. *People v Rakov (Aft Rem)*, 201 Mich App 123, 126; 505 NW2d 886 (1993). *People v Milbourn*, 435 Mich 630, 634; 461 NW2d 1 (1990).

Affirmed.

/s/ Hilda R. Gage

/s/ Barbara B. MacKenzie

/s/ Helene N. White