

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES EDWARD MAJORS,

Defendant-Appellant.

UNPUBLISHED

March 19, 1999

No. 206309

Isabella Circuit Court

LC No. 88-004966 FC

Before: Doctoroff, P.J., and Jansen and Collins, JJ.

MEMORANDUM.

Defendant appeals by right from a judgment of sentence which was entered on remand for resentencing pursuant to this Court's decision in defendant's second appeal in this case, *People v Majors*, unpublished opinion per curiam of the Court of Appeals, issued June 16, 1995 (Docket No. 162609), lv den 453 Mich 976 (1996). We affirm.

On appeal, defendant only challenges his sentences of 11 years and 1 month to 22½years' imprisonment for breaking and entering an occupied dwelling with intent to commit larceny, MCL 750.110; MSA 28.305, and conspiracy to break and enter with intent to commit larceny, MCL 750.157a; MSA 28.354(1). Specifically, defendant objects that there was insufficient justification for the judge who retried defendant in 1993 to impose sentences greater than the ten to fifteen year sentences originally imposed by the judge who presided at defendant's initial trial on the charges in 1988.

Defendant has waived any sentencing issues for appeal by failing to provide this Court with any copy of the presentence investigation report, as required by MCR 7.212(C)(7). *People v Oswald*, 208 Mich App 444, 446; 528 NW2d 782 (1995). Moreover, even if the issue were not waived, we would reject defendant's challenge to his sentences for lack of merit. No presumption of vindictiveness applies when a greater sentence is imposed after retrial by a different trial judge than the judge who imposed the original, lesser sentence. *People v Mazzie*, 429 Mich 29, 33, 48; 413 NW2d 1 (1987); *People v Clark*, 172 Mich App 1, 9; 432 NW2d 173 (1988). Accordingly, newly obtained facts justifying the increase are not needed to rebut a presumption of vindictiveness in this case. See *People*

v Sutton, 158 Mich App 755, 760; 405 NW2d 209 (1987). The mere fact that a greater sentence has been imposed, without more, is insufficient to warrant resentencing. See *Mazzie*, supra at 48, n 10.

Affirmed.

/s/ Martin M. Doctoroff

/s/ Kathleen Jansen

/s/ Jeffrey G. Collins