

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EQUIANO RAMOND FRANCE,

Defendant-Appellant.

UNPUBLISHED

October 25, 2007

No. 272992

Oakland Circuit Court

LC No. 2005-206037-FC

Before: Zahra, P.J., and White and O’Connell, JJ.

PER CURIAM.

Defendant challenges the inclusion of certain information in the presentence investigation report (PSIR) prepared for his sentencing. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was charged with one count of armed robbery, MCL 750.529, one count of felon in possession of a firearm, MCL 750.224f, and two counts of possession of a firearm during the commission of a felony, MCL 750.227b. Following a jury trial, defendant was acquitted of armed robbery and one count of felony-firearm, and was convicted of felon in possession of a firearm and one count of felony-firearm.

The agent’s description of the offense included in the PSIR detailed the facts surrounding the police response to a report of an armed robbery, and the search for a suspect. The report noted that defendant was arrested in connection with the armed robbery, but was acquitted of the charge of armed robbery and of one count of felony-firearm. Defendant did not object at sentencing to the accuracy or relevancy of any information contained in the PSIR. The trial court sentenced defendant as a third habitual offender, MCL 769.11, to 34 months to ten years in prison for felon in possession of a firearm, and to a consecutive two-year term for felony-firearm, with credit for 228 days.

A PSIR must, depending on the circumstances of the particular case, include various components, including “a complete description of the offense and the circumstances surrounding it[.]” MCR 6.425(A)(2). At the time of sentencing, the court must give each party an opportunity to challenge the accuracy or relevancy of any information contained in the PSIR. MCR 6.425(E)(1)(b); MCL 771.14(6). A party may not raise on appeal an issue challenging the scoring of the guidelines or the accuracy of information relied upon in determining a sentence that is within the appropriate guidelines range unless the party has raised the issue at sentencing,

in a proper motion for resentencing, or in a proper motion to remand. MCR 6.429(C); MCL 769.34(10); *People v Kimble*, 470 Mich 305, 309; 684 NW2d 669 (2004).

On appeal, defendant argues that the information in the PSIR concerning the armed robbery was irrelevant to his sentencing because he was acquitted of that charge, and contends that he is entitled to have that information removed from the PSIR. We disagree.

Defendant's assertion that his challenge to a portion of the agent's description of the offense has not been waived or forfeited¹ is strained. Nevertheless, we find no error. The PSIR included a recitation of the original offense and surrounding circumstances, as required by MCR 6.425(A)(2). Defendant's acquittal of the charge of armed robbery and of one count of felony-firearm was noted in the PSIR. The acquittal does not obviate the need to comply with MCR 6.425(A)(2). The information was properly included in the PSIR.

Affirmed.

/s/ Brian K. Zahra
/s/ Helene N. White
/s/ Peter D. O'Connell

¹ See *People v Carter*, 462 Mich 206, 215; 612 NW2d 144 (2000).