

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

VINCENT RAY-ALPHONSO BOYKIN,

Defendant-Appellant.

UNPUBLISHED

April 3, 2008

No. 277147

Wayne Circuit Court

LC No. 06-013597-01

Before: Kelly, P.J., and Owens and Schuette, JJ.

MEMORANDUM.

Following a jury trial, defendant was convicted of first-degree home invasion, MCL 750.110a(2), felon in possession of a firearm, MCL 750.224f, felonious assault, MCL 750.82, assault with intent to do great bodily harm less than murder, MCL 750.84, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced as an habitual offender, fourth offense, MCL 769.12, to concurrent prison terms of 8 to 20 years for the home invasion conviction, 5 to 10 years for the felon in possession conviction, 5 to 15 years for the felonious assault conviction, and 8 to 15 years for the assault with intent to do great bodily harm conviction, to be served consecutively to a two-year term of imprisonment for the felony-firearm conviction. He appeals as of right. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant argues that offense variables 2, 4, and 16 were erroneously scored. We find it unnecessary to address the merits of defendant's scoring challenges because they do not affect the appropriate guidelines range. Defendant received 66 total offense variable (OV) points. On appeal, he argues that (1) he should have received only five points instead of ten points for OV 2; (2) he should have received zero points rather than ten points for OV 4; and (3) he should have received zero points rather than one point for OV 16. Even if we accepted defendant's arguments, his total point reduction would be 16 points, reducing his total offense variable score from 66 to 50 points. The reduction would still place defendant at offense level V (50 – 74 points) of the sentencing grid for the first-degree home invasion conviction, a class B offense. MCL 777.63; MCL 777.16f. "Where a scoring error does not alter the appropriate guidelines range, resentencing is not required." *People v Francisco*, 474 Mich 82, 89 n 8; 711 NW2d 44 (2006). Because defendant's scoring challenges do not affect the appropriate guidelines range, resentencing is not required.

Affirmed.

/s/ Kirsten Frank Kelly
/s/ Donald S. Owens
/s/ Bill Schuette