

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

THOMAS WASHINGTON,

Defendant-Appellant.

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UNPUBLISHED

June 30, 2009

No. 284249

Wayne Circuit Court

LC No. 06-002560-FC

Before: Jansen, P.J., and Hoekstra and Markey, JJ.

PER CURIAM.

In July 2006, a jury convicted defendant of two counts of assault with intent to commit murder, MCL 750.83, felon in possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b. He was sentenced to concurrent terms of life imprisonment for each assault conviction and 40 to 60 months for the felon in possession conviction, and a consecutive two-year term of imprisonment for the felony-firearm conviction. In a prior appeal, this Court affirmed defendant's convictions, as well as his sentences for the two weapons offenses, but vacated the life sentences for the assault convictions and remanded for resentencing before a different judge. *People v Washington*, unpublished opinion per curiam of the Court of Appeals, issued November 27, 2007 (Docket No. 272989). On remand, defendant was resentenced within the sentencing guidelines range to concurrent prison terms of 210 months to 40 years for each assault conviction. Defendant again appeals as of right and we affirm. This appeal has been decided without oral argument. MCR 7.214(E).

Defendant argues that he is entitled to resentencing because the trial court relied on inaccurate information at sentencing, given that the presentence report was "incomplete as to information about his substance abuse and mental health problems" and the court "was not fully apprized [sic] of the depth of his mental health problem and the extent to which it affected his behavior and thought processes." Because defendant did not challenge the accuracy of the presentence report at sentencing, in a proper motion for resentencing, or in a motion to remand, this issue is not preserved. MCL 769.34(10); MCR 6.429(C); *People v McCrady*, 244 Mich App 27, 32; 624 NW2d 761 (2000). Unpreserved claims of sentencing error are reviewed for plain error affecting substantial rights. *People v Carines*, 460 Mich 750, 763-764; 597 NW2d 130 (1999); *People v McLaughlin*, 258 Mich App 635, 670; 672 NW2d 860 (2003).

The trial court must impose a minimum sentence within the guidelines range unless it finds a substantial and compelling reason for a departure from the guidelines. MCL 769.34(2)

and (3). If a minimum sentence is within the guidelines range, it must be affirmed on appeal unless the defendant shows an error in the scoring of the guidelines which, if corrected, would change the appropriate guidelines range, or the defendant shows that the trial court relied on inaccurate information in determining his sentence. MCL 769.34(10); *People v Francisco*, 474 Mich 82, 91-92; 711 NW2d 44 (2006).

Defendant's sentences are within the guidelines range of 126 to 210 months and defendant does not contend that the guidelines were improperly scored. While he contends that the presentence report was "incomplete as to information about his substance abuse and mental health problems," he did not alert the court to any alleged errors or omissions at sentencing. The presentence report is presumed to be accurate and may be relied on by the trial court unless effectively challenged by the defendant. *People v Grant*, 455 Mich 221, 233-234; 565 NW2d 389 (1997); *People v Callon*, 256 Mich App 312, 334; 662 NW2d 501 (2003). Further, while defendant suggests that certain relevant information about his substance abuse and mental health problems was omitted from the presentence report, he has not identified the specific nature of any information that he believes should have been included, nor has he explained how the court's failure to consider information of which it was never apprised affected his ultimate sentence. Therefore, defendant has failed to show a plain sentencing error.

Defendant has also filed a pro se Standard 4 brief in which he raises three additional issues, all challenging the validity of his convictions. The law is clear that an appeal by right following a remand is limited to issues arising from the remand. *People v Jones*, 394 Mich 434, 435-436; 231 NW2d 649 (1975); see also *People v Kincade (On Remand)*, 206 Mich App 477, 481; 522 NW2d 880 (1994). The prior appeal resulted in a remand for resentencing only. Therefore, the scope of this appeal is limited to "matters which arose at resentencing," *Jones, supra*, and the issues raised in defendant's Standard 4 brief are outside of this Court's purview in this appeal.

Affirmed.

/s/ Kathleen Jansen  
/s/ Joel P. Hoekstra  
/s/ Jane E. Markey