

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHARLES OXENDINE,

Defendant-Appellant.

UNPUBLISHED

December 13, 1996

No. 174586

Detroit Recorder's Court

LC No. 90-002611

Before: Jansen, P.J., and Saad and M.D. Schwartz,* JJ.

PER CURIAM.

Following a jury trial in the Detroit Recorder's Court, defendant was convicted of 99 counts of altering a vehicle identification number without intent to mislead, MCL 750.415(1); MSA 28.647(1), two counts of owning or operating a chop shop, MCL 750.535a(2); MSA 28.803(1)(2), and ten counts of receiving and concealing stolen property in excess of \$100 (RCSP), MCL 750.535; MSA 28.803. He thereafter pleaded guilty to fourth habitual offense, MCL 769.12; MSA 28.1084. He was sentenced to eight to twenty years as an habitual offender. Defendant then appealed his convictions to this Court. All charges, except the two counts of operating a chop shop, were vacated by this Court on the basis of double jeopardy and a resentencing was ordered. *People v Oxendine*, 201 Mich App 372; 506 NW2d 885 (1993). On resentencing, the trial court imposed a sentence of seven to twenty years for the fourth habitual offense conviction. Defendant again moved for resentencing in the lower court, and that motion was denied. Defendant now appeals as of right from the denial of his motion for resentencing.

On appeal, defendant contends that the trial court erred in scoring PRV 1 at fifty points, OV 8 at ten points, OV 14 at ten points, and OV 17 at ten points. Because the sentencing guidelines do not apply to habitual offender sentences, and because this Court is not permitted to review habitual offender sentences by reference to the sentencing guidelines, any alleged error in the scoring of the guidelines for the underlying offense does not require a remand or any other remedy. *People v Gatewood (On*

* Circuit judge, sitting on the Court of Appeals by assignment.

Remand), 216 Mich App 559, 560; 550 NW2d 265 (1996); *People v Dixon*, 217 Mich App 400, 411; 552 NW2d 663 (1996).

Defendant also objects to the trial court's characterization that he has led a life of crime. The presentence investigation report indicates that defendant has a total of nine felony convictions dating back to 1950. He has a burglary conviction in 1950, an armed robbery conviction in 1955, a burglary conviction in 1961, an attempted RCSP conviction in 1975, two RCSP convictions in 1976, and an attempted RCSP conviction in 1983. He present two convictions of operating a chop shop occurred in 1990. The trial court's conclusion that defendant has led a life of crime is entirely accurate.

Finally, we do not find defendant's sentence of seven to twenty years as a fourth habitual offender to violate the principle of proportionality. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990); *People v Cervantes*, 448 Mich 620; 532 NW2d 831 (1995).

Affirmed.

/s/ Kathleen Jansen

/s/ Henry William Saad

/s/ Michael D. Schwartz