

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

TIMOTHY J. VEASLEY,

Defendant-Appellant.

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UNPUBLISHED

December 23, 1997

No. 196793

Genesee Circuit Court

LC No. 96-053792 FH

Before: MacKenzie, P.J., and Hood and Hoekstra, JJ.

MEMORANDUM.

Defendant was convicted by jury of possession with intent to deliver less than fifty grams of cocaine, MCL 333.7401(1) and (2)(a)(iv); MSA 14.15(7401)(1) and (2)(a)(iv), and sentenced to an enhanced term of imprisonment of twelve to forty years, reflecting his status as a third offender, MCL 769.11; MSA 28.1083. Defendant appeals as of right. We affirm defendant's conviction and sentence, but remand solely for the administrative purpose of correcting the presentence investigation report.

Defendant failed to preserve for appellate review his claim of judicial misconduct. *People v Sardy*, 216 Mich App 111, 117-118; 549 NW2d 23 (1996). Defendant has failed to demonstrate manifest injustice on the instant record, particularly where the record fails to sustain defendant's claim of misconduct. *People v Ross*, 181 Mich App 89, 91; 449 NW2d 107 (1989); *People v Collier*, 168 Mich App 687, 697-698; 425 NW2d 118 (1988). The statement relied upon by defendant in support of his misconduct claim does not evince misconduct. Instead, the statement suggests nothing more than that the trial court was summoning the prosecutor to a position to better view the proffered evidence so that the prosecutor might better ascertain whether she should object to its admission. Moreover, there is no indication in the record that when the court informed the prosecutor that she "ought to . . . look at this," the court was referring to the slip of paper upon which the names and money amounts had been recorded. There is also no indication in the record that the judge waved the slip of paper in front of the jury or informed the prosecutor that the slip of paper contained incriminating information. Accordingly, the record does not support defendant's judicial misconduct claim.

The trial court failed to make the modifications to the presentence information report that the court agreed to make at the time of sentencing. Accordingly, we remand to the trial court for the correction of the report and a transmittal of the corrected report to the Department of Corrections. *People v Grove*, 455 Mich 439, 477; 566 NW2d 547 (1997); *People v Paquette*, 214 Mich App 336, 346-347; 543 NW2d 342 (1995).

Affirmed, but remanded for correction of the presentence investigation report. We do not retain jurisdiction.

/s/ Barbara B. MacKenzie

/s/ Harold Hood

/s/ Joel P. Hoekstra