

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee/Cross-Appellant,

v

SACKDAVANH NOY PHRAXAYAVONG,

Defendant-Appellant/Cross-
Appellee.

UNPUBLISHED

August 23, 2007

No. 270381

Shiawassee Circuit Court

LC No. 05-003008-FH

Before: Owens, P.J., and White and Murray, JJ.

WHITE, J. (*concurring in part and dissenting in part*).

I respectfully dissent from the majority’s determination that OV 9 was improperly scored. “A sentencing court has discretion in determining the number of points to be scored, provided that evidence of record adequately supports a particular score.” *People v Hornsby*, 251 Mich App 462, 468; 650 NW2d 700 (2002). “Scoring decisions for which there is any evidence in support will be upheld.” *Id.*, quoting *People v Elliott*, 215 Mich App 259, 260; 544 NW2d 748 (1996). Because the trial court’s lucid explanation of its scoring of zero points for OV 9 is supported by record evidence, I would affirm the trial court in this regard.

/s/ Helene N. White