

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

UNPUBLISHED
September 20, 2011

v

No. 298417
Oakland Circuit Court
LC No. 2009-229331-FC

MICHAEL RAY RICHARD,
Defendant-Appellant.

Before: SAWYER, P.J., and JANSEN and DONOFRIO, JJ.

PER CURIAM.

Following a jury trial, defendant was convicted of felon in possession of a firearm, MCL 750.224f. He was sentenced to 4 to 40 years' imprisonment. Defendant appeals as of right. We affirm.

"[W]e review de novo as a question of law the interpretation of the statutory sentencing guidelines." *People v Endres*, 269 Mich App 414, 417; 711 NW2d 398 (2006). The sentencing court has discretion in scoring the guidelines so long as "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." *People v Elliott*, 215 Mich App 259, 260; 544 NW2d 748 (1996).

MCL 777.49 provides, in part:

Offense variable 19 is threat to the security of a penal institution or court or interference with the administration of justice or the rendering of emergency services. Score offense variable 19 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

* * *

(b) The offender used force or the threat of force against another person or the property of another person to interfere with, attempt to interfere with, or that results in the interference with the administration of justice of the rendering of emergency services..... 15 points

(c) The offender otherwise interfered with or attempted to interfere with the administration of justice..... 10 points

In interpreting MCL 777.49(c), our Supreme Court has held that, “conduct that ‘interfered with or attempted to interfere with the administration of justice’ does not have to necessarily rise to the level of a chargeable offense because it is merely being used as one of various factors to determine a defendant’s sentencing guidelines range.” *People v Barbee*, 470 Mich 283, 287; 681 NW2d 348 (2004). Furthermore, the phrase “administration of justice” is not limited to the judicial process itself, but includes the investigation of a crime. *Id.* at 288. “Law enforcement officers are an integral component in the administration of justice, regardless of whether they are operating directly pursuant to a court order.” *Id.* Interfering with the investigation of a crime can, therefore, constitute interference with the administration of justice. *Id.* “Because OV 19 specifically provides for the ‘consideration of conduct after completion of the sentencing offense,’ conduct that occurred after an offense was completed may be considered when scoring the offense variable.” *People v Smith*, 488 Mich 193, 202; 793 NW2d 666 (2010) (citation omitted).

Here, police officers were actively investigating a crime when defendant refused to abide by their commands. The officers went to defendant’s residence in response to the victim’s claim that defendant robbed her at gunpoint. When they arrived, defendant opened the interior door, but did not open the outer screen door, which remained closed and locked. The officers recognized defendant as fitting the suspect’s description. Defendant then retreated into the house and out of the officers’ line of vision. The officers ordered him to come outside and identified themselves as “Southfield Police.” At all times, the officers were in full uniform and their marked patrol cars were parked outside. A police sergeant telephoned defendant and instructed him to come out of the house. Defendant hung up and did not come out. The sergeant called a second time, and, approximately 30 minutes after the police arrived at the home, defendant came out of the house and was arrested.

The trial court properly determined that scoring 10 points for OV 19 was appropriate because defendant “refused to obey lawful orders of the police” and “was obviously refusing to comply with officers’ commands.” The officers were actively investigating a crime, and defendant’s refusal to comply with their lawful orders during the investigation constitutes interference with the administration of justice. MCL 777.49(c); *Barbee*, 470 Mich at 288. Therefore, the evidence supported the scoring of 10 points under OV 19, and defendant is not entitled to resentencing.

Affirmed.

/s/ David H. Sawyer
/s/ Kathleen Jansen
/s/ Pat M. Donofrio