

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION	
)	(Not For Official Publication)	
Plaintiff and Appellee,)		
)	Case No. 20050508-CA	
v.)		
)	F I L E D	
John Mark Heaton,)	(August 24, 2006)	
)		
Defendant and Appellant.)	<table border="1"><tr><td>2006 UT App 350</td></tr></table>	2006 UT App 350
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Second District, Farmington Department, 031701805, 031701806
The Honorable Darwin C. Hansen

Attorneys: Scott L. Wiggins, Salt Lake City, for Appellant
Mark L. Shurtleff, Brett J. Delporto, and Kenneth A.
Bronston, Salt Lake City, for Appellee

Before Judges Bench, Billings, and Thorne.

PER CURIAM:

Defendant John Mark Heaton argues that the trial court "failed to make the specific findings on the record as mandated by [Utah Code section 77-18-1(6)]." See Utah Code Ann. § 77-18-1(6) (Supp. 2006). Defendant quotes State v. Veteto, 2000 UT 62, ¶15, 6 P.3d 1133, in support of this argument, but fails to explain why Veteto applies here.

Section 77-18-1(6) (a) provides in part:

Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the [Department of Corrections] prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional ten working days to resolve the alleged inaccuracies of the report with the department. If after ten working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.

Utah Code Ann. § 77-18-1(6) (a).

Compliance with this section "requires the sentencing judge to consider the party's objections to the report, make findings on the record as to whether the information objected to is accurate, and determine on the record whether that information is relevant to the issue of sentencing." State v. Jaeger, 1999 UT 1, ¶44, 973 P.2d 404. It is insufficient to make general statements "concerning the court's view of the defendant and the case." Id.

The trial court in this case fully complied with section 77-18-1(6). The trial court listened to each of the objections set forth by Defendant and specifically commented on these objections, but ultimately noted that the objections had no relevance to the sentence the trial court would impose. The trial court then discussed precisely why it was imposing its sentence. The trial court did not simply issue "general statements concerning the court's view of the defendant and the case." Veteto, 2000 UT 62 at ¶14 (quotations and citation omitted). Instead, "in this case the judge did make findings on the record regarding the relevance and accuracy of the contested information." State v. Johnson, 2006 UT App 3, ¶10, 129 P.3d 282.

Defendant also alleges that his trial counsel was ineffective because he failed to "affirmatively move the sentencing court to exercise its fact finding function to resolve the inaccuracies in the [PSI]." This allegation is belied both by Defendant's own appeal brief and by the record, each of which clearly indicates that counsel brought all alleged inaccuracies to the attention of the trial court. Thus, Defendant fails to "overcome the strong presumption that trial counsel rendered adequate assistance and exercised reasonable professional judgment." State v. Bullock, 791 P.2d 155, 159-60 (Utah 1989).

Accordingly, we affirm.

Russell W. Bench,
Presiding Judge

Judith M. Billings, Judge

William A. Thorne Jr., Judge