

IN THE UTAH COURT OF APPEALS

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State of Utah,)	MEMORANDUM DECISION
)	(Not For Official Publication)
Plaintiff and Appellee,)	Case No. 20070136-CA
)	
v.)	F I L E D
)	(June 19, 2008)
Michael Samuel Weaver,)	
)	2008 UT App 237
Defendant and Appellant.)	

Third District, Salt Lake Department, 061902866
The Honorable Deno Himonas

Attorneys: Ronald S. Fujino, Salt Lake City, for Appellant
Mark L. Shurtleff and Karen A. Klucznik, Salt Lake
City, for Appellee

Before Judges Greenwood, Thorne, and Orme.

PER CURIAM:

Michael Samuel Weaver appeals his sentence after pleading guilty. We affirm.

Weaver asserts that he received ineffective assistance of counsel at sentencing because trial counsel failed to address several alleged errors in Weaver's presentence report. To show ineffective assistance of counsel, Weaver must establish that his trial counsel's performance was deficient and that such deficient performance prejudiced him. See State v. Litherland, 2000 UT 76, ¶ 19, 12 P.3d 92. Additionally, it is an appellant's burden to provide a record adequate to review the ineffectiveness claim on appeal. See id. ¶ 17. Where the record is inadequate, this court will presume that counsel performed effectively. See id.

Weaver asserts generally that his presentence report was "full of errors." His assertion is not supported in the record and is too vague to address. There is no specific challenge to the contents of the report. Because there is no specific error identified, Weaver has not shown that trial counsel performed deficiently in failing to address any issue with the presentence report to the trial court.

The only information Weaver provides regarding the presentence report is a post sentence letter to the trial court and a docketing statement in a related case. Even if these were properly in the appellate record of this case, they fail to support a claim of ineffective assistance. First, Weaver does not identify any error in the report but, rather, asserts that some information was not included. He has not shown that such information is required to be included in the presentence report and, thus, has not established any basis for error. Also, some of the information, such as his efforts at treatment and appearances in court, was presented to the trial court at sentencing.

In sum, Weaver has not established that he received ineffective assistance of counsel at sentencing.

Affirmed.

Pamela T. Greenwood,
Presiding Judge

William A. Thorne Jr.,
Associate Presiding Judge

Gregory K. Orme, Judge