

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JIMMY LEE WALKER,

Defendant-Appellant.

UNPUBLISHED
November 20, 2012

Nos. 304040; 305686
Wayne Circuit Court
LC Nos. 10-009871-FC;
10-009872-FC

Before: FORT HOOD, P.J., and K. F. KELLY and DONOFRIO, JJ.

MEMORANDUM.

Following a bench trial, defendant was convicted of two counts of second-degree criminal sexual conduct, MCL 750.520c(1)(a). Defendant's only issue on appeal is that the presentence investigation report (PSIR) and the sentencing information report (SIR) contain inaccurate information regarding his criminal history, the scoring of offense variable (OV) 11, and his minimum sentence guideline range. We remand to the trial court for the ministerial task of correcting defendant's SIR and PSIR.

If information in a PSIR is challenged at sentencing, and the trial court finds the challenged information is inaccurate, then the PSIR "shall be amended, and the inaccurate or irrelevant information shall be stricken accordingly before the report is transmitted to the department of corrections." MCL 771.14(6); MCR 6.425(E)(2). "Critical decisions are made by the Department of Corrections regarding a defendant's status based on the information contained in the presentence investigation report. Thus, the presentence investigation report should accurately reflect any determination the sentencing judge has made concerning the accuracy or relevancy of the information contained in the report." *People v Norman*, 148 Mich App 273, 275; 384 NW2d 147 (1986).

At sentencing, the parties and the trial court agreed that defendant's adult criminal history included three misdemeanors and one low severity felony. The trial court also determined OV 11 should be scored at zero points instead of at 25 points. This changed defendant's recommended minimum sentence range under the legislative guidelines to 43 to 86 months. Nevertheless, defendant's SIR and PSIR erroneously indicate that defendant's criminal history includes two felonies and two misdemeanors, that OV 11 was scored at 25 points, and that defendant's minimum sentence range was 50 to 100 months, contrary to the trial court's findings. The prosecution concedes that defendant is entitled to correction of the SIR and PSIR.

Remanded to the trial court for the ministerial task of correcting defendant's SIR and PSIR and forwarding a corrected copy to the Department of Corrections. We do not retain jurisdiction.

/s/ Karen M. Fort Hood

/s/ Kirsten Frank Kelly

/s/ Pat M. Donofrio