

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

UNPUBLISHED
November 20, 2012

v

MARC ROBERT HENDRICKS,

Defendant-Appellant.

No. 307636
Muskegon Circuit Court
LC No. 10-059486-FC

Before: TALBOT, P.J., and BECKERING and M. J. KELLY, JJ.

PER CURIAM.

Defendant Marc Robert Hendricks appeals by leave granted his sentence for first-degree criminal sexual conduct. See MCL 750.520b(1)(a). After Hendricks entered a no contest plea, the trial court convicted Hendricks of criminal sexual conduct and sentenced him to 81 months to 30 years in prison. Because we conclude there were no errors warranting relief, we affirm.

I. BASIC FACTS

Hendricks' conviction arises from the allegations that when he was approximately 14 to 16 years old, he sexually abused his younger cousin. His cousin testified that when Hendricks babysat her, he would force her to perform fellatio. Further, from when Hendricks' cousin was the age of 7 years old to the age of 10 years old, she estimated that Hendricks abused her 30 times. Although Hendricks testified he had no recollection of abusing his cousin, he entered a no contest plea to the alleged sexual abuse.

II. OFFENSE VARIABLES

A. STANDARD OF REVIEW

Hendricks argues that trial court erred in scoring his offense variables (OVs) and that these errors warrant resentencing. The sentencing guidelines are a comprehensive, integrated, and mandatory sentencing scheme; trial courts must score them and must score them properly. *People v Bemar*, 286 Mich App 26, 32, 34-35; 777 NW2d 464 (2009). This Court reviews de novo whether the trial court properly interpreted and applied the sentencing guidelines to the facts. *People v Cannon*, 481 Mich 152, 156; 749 NW2d 257 (2008). And this Court reviews the trial court's findings underlying a particular score for clear error. *People v Osantowski*, 481 Mich 103, 111; 748 NW2d 799 (2008).

B. ANALYSIS

Hendricks challenges the trial court's scoring OV 4 at 10 points. Under MCL 777.34, a sentencing court must score 10 points when the victim suffers or suffered a serious psychological injury that requires or may require professional treatment. In determining whether the victim may require professional treatment, "the fact that treatment has not been sought is not conclusive." MCL 777.34(2). However, there must be "some evidence of a psychological injury on the record to justify a 10-point score." *People v Lockett*, 295 Mich App 165, 183; 814 NW2d 295 (2012); see also *People v Hicks*, 259 Mich App 518, 535; 675 NW2d 599 (2003). A "sentencing court may consider all record evidence before it when calculating the guidelines, including, but not limited to, the contents of a presentence investigation report [PSIR], admissions made by a defendant during a plea proceeding, or testimony taken at a preliminary examination or trial." *People v Althoff*, 280 Mich App 524, 541; 760 NW2d 764 (2008), quoting *People v Ratkov (After Remand)*, 201 Mich App 123, 125; 505 NW2d 886 (1993). When the record evidence shows the victim was fearful during the sexual assault or had attempted to block out the memory of the incident, there is sufficient evidence of the record to justify the sentencing court's scoring of the 10 points for OV 4. *People v Waclawski*, 286 Mich App 634, 681; 780 NW2d 321 (2009); see also *People v Apgar*, 264 Mich App 321, 329; 690 NW2d 312 (2004) (holding that, because the victim testified she was fearful during the abuse, there was sufficient evidence to support trial court's decision to score OV 4 at 10 points).

In this case, Hendricks' cousin stated that she remembered looking in the mirror after the first time Hendricks abused her. According to the PSIR, she remembered seeing herself cry and "look[ing] broken, scared, and hopeless." At the sentencing hearing, she cried as she related that it was hard growing up after the sexual abuse. And she stated that, as a result of the psychological effects of the abuse, she had started seeing a psychologist. Thus, the record provides sufficient support for the trial court's finding that the victim suffered a serious psychological injury as the result of Hendricks' abuse. The trial court did not err when it scored 10 points for OV 4.

III. JUDGMENT OF SENTENCE

Next, Hendricks argues that the trial court erred in entering a judgment of sentence that listed defendant's offense as "CSC 1ST DEGREE UNDER 13." Under MCR 6.427, "[w]ithin 7 days after sentencing, the court must date and sign a written judgment of sentence that includes: . . . (3) the crime for which the defendant was convicted." Hendricks argues that under MCR 6.427(3), "crime" refers to the catch line of the criminal statute under which a defendant is convicted. Thus, Hendricks contends that his judgment of sentence should list "CSC 1ST DEGREE," not "CSC 1ST DEGREE UNDER 13." However, Hendricks abandoned this issue by providing no explanation or support for his claim that we should interpret MCR 6.427 as requiring the court to list the specific catch line of the criminal statute in the judgment of sentence. *People v Martin*, 271 Mich App 280, 315; 721 NW2d 815 (2006).

There were no errors warranting relief.

Affirmed.

/s/ Michael J. Talbot
/s/ Jane M. Beckering
/s/ Michael J. Kelly