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STATE OF MICHIGAN

COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN, Plaintiff-Appellee, v MYKE EDWARD-CHARLES HUTCHINSON, Defendant-Appellant.	UNPUBLISHED October 16, 2026 12:07 PM No. 376037 Van Buren Circuit Court LC Nos. 2024-025235-FH; 2024-025244-FH

Before: SWARTZLE, P.J., and ACKERMAN and TREBILCOCK, JJ.

PER CURIAM.

Defendant pleaded guilty to two counts of delivery of methamphetamine, MCL 333.7401(2)(b)(*i*), and the trial court sentenced him to concurrent terms of 51 to 240 months' imprisonment. Defendant now appeals by leave granted,[1] challenging the trial court's assessment of 10 points for Offense Variable (OV) 19, based largely on conduct that occurred after entry of his plea but before sentencing. We affirm.

I. BACKGROUND

This case arises from defendant's sale and delivery of methamphetamine to a confidential informant working with a local drug task force in February and March 2024. The prosecutor thereafter filed two separate felony complaints charging defendant as a third-offense habitual offender, MCL 769.11, with one count of delivery of methamphetamine for the transaction in February and one count for the transaction in March.

In August 2024, defendant pleaded guilty to both counts; in exchange, the prosecution agreed to withdraw the habitual-offender notices and to dismiss two unrelated cases. The parties also entered into a *Killebrew*[2] agreement providing for 36-month minimum sentences—the bottom

[1] *People v Hutchinson*, unpublished order of the Court of Appeals, entered July 30, 2025 (Docket No. 376037).

[2] *People v Killebrew*, 416 Mich 189; 330 NW2d 834 (1982).

of the guidelines range as it was then calculated—and for the prosecution not to object to defendant's placement in the Special Alternative Incarceration program. The trial court scheduled a sentencing hearing for September 23, 2024, and it instructed defendant not to "commit some type of misconduct between now and sentencing, such as criminal law violations, bond violations, failure to cooperate with the Department of Corrections, [and] things of that nature." The court directed defendant to go to the Department of Corrections to schedule a presentence interview and to "make sure" he presented himself for the scheduled interview, and defendant responded, "Okay."

When the parties appeared on September 23, the trial court indicated that it had received a presentence case report stating that the presentence investigation report (PSIR) "was not prepared due to lack of cooperation" from defendant. The court also noted a report from the Office of Community Corrections indicating that defendant had not called into the drug testing line as required by his bond conditions and had failed to appear for drug testing on numerous dates between June and September 2024. Defendant attributed those issues to poverty and "not being able to maintain a phone." The court adjourned sentencing to November 12, 2024, and amended defendant's bond to require that he "remain in jail until PSI interview complete, not to exceed 14 days." The court further ordered that, once released, defendant was to call the drug-testing line daily and comply with testing. Defendant was taken into custody following the hearing, presented himself for a presentence interview during his incarceration, and was released on October 4.

Defendant did not appear on November 12, and the trial court issued a bench warrant. That evening at approximately 9:00 p.m., defendant was booked into the Cass County Jail for reasons unrelated to this case. When he was arraigned on the bench warrant on December 3, defendant represented that he had mistakenly believed the November 12 hearing was scheduled for the following week, and he had been in Cass County Jail on the day of the scheduled hearing. The court recalled the bench warrant, reinstated bond, and rescheduled sentencing for December 16.

Though the parties had initially contemplated an assessment of zero points for OV 19 when they entered into the plea agreement, the PSIR prepared in advance of sentencing assessed 10 points for OV 19. When sentencing finally proceeded on December 16, the prosecution asked the court to adopt the guidelines calculation set forth in the PSIR, asserting that defendant had violated the plea agreement by committing misconduct while on bond, while the defense asked the court to follow the agreement and to score OV 19 at zero points. The court found that it was not bound by the parties' agreement based on defendant's bond violations and misconduct he committed while incarcerated pending the presentence interview. The court then assessed 10 points for OV 19, citing defendant's failure to cooperate with the presentence investigation and his failure to appear on November 12, necessitating multiple adjournments of sentencing. That change increased the guidelines minimum range, which the parties calculated to be 36 to 60 months for purposes of the plea agreement, to 51 to 85 months. The trial court then sentenced defendant at the bottom of that range to concurrent terms of 51 to 240 months. This appeal followed.

II. DISCUSSION

"Under the sentencing guidelines, the circuit court's factual determinations . . . must be supported by a preponderance of the evidence." *People v Teike*, 348 Mich App 520, 526; 19 NW3d 733 (2023) (cleaned up). We review the factual basis for a trial court's assessment of offense

variables for clear error, which "exists when this Court is left with a definite and firm conviction that a mistake was made." *Id*. at 525-526 (quotation marks and citation omitted). We review de novo "[w]hether the facts, as found, are adequate to satisfy the scoring conditions prescribed by statute." *People v Horton*, 345 Mich App 612, 616; 8 NW3d 622 (2023) (citation omitted; alteration in original). In scoring the guidelines, the trial court "may consider all record evidence, including the contents of a PSIR," and the court "may rely on reasonable inferences arising from the record evidence to sustain the scoring of an offense variable." *Id*. (citation omitted).

OV 19 addresses, among other things, interference with the administration of justice and is governed by MCL 777.49. As relevant here, the trial court must assess 10 points for OV 19 when "[t]he offender . . . interfered with or attempted to interfere with the administration of justice." MCL 777.49(c). To interfere with the administration of justice is "to oppose so as to hamper, hinder, or obstruct the act or process of administering judgment of individuals or causes by judicial process." *People v Hershey*, 303 Mich App 330, 343; 844 NW2d 127 (2013).

"OV 19 is generally scored for conduct that constitutes an attempt to avoid being caught and held accountable for the sentencing offense." *People v Sours*, 315 Mich App 346, 349; 890 NW2d 401 (2016). A trial court may consider conduct that occurred after the sentencing offense was completed when scoring OV 19. *People v Smith*, 488 Mich 193, 200-202; 793 NW2d 666 (2010). Our Supreme Court has cautioned that OV 19 contemplates "something more" than a mere denial of culpability; "[t]here must be some daylight between attempting to interfere with the administration of justice and simply not assisting in or helping facilitate a criminal investigation." *People v Deweerd*, 511 Mich 979, 980-981 (2023). The same is true of a defendant's conduct while awaiting sentencing: the question is not simply whether the defendant failed to cooperate, but whether his or her conduct hampered, hindered, or obstructed, or was an attempt to hamper, hinder, or obstruct, "the act or process of administering judgment" in the case. *Hershey*, 303 Mich App at 343.

The record supports the trial court's assessment of 10 points for OV 19. Defendant's conduct twice prevented the court from sentencing him on the scheduled date. First, although the court ordered defendant at the plea hearing to schedule and attend a presentence interview, and defendant agreed to do so, he neither completed the presentence questionnaire nor met with the probation agent before the first scheduled sentencing hearing. Because the probation officer must complete a presentence investigation and report to the court before a defendant is sentenced for a felony, MCL 771.14(1), sentencing could not proceed on September 23 and was adjourned to November 12. Second, defendant did not appear on November 12. The trial court found that his absence was intentional, and the record supports that finding. Defendant was present on September 23 when the court adjourned sentencing to November 12, and according to the PSIR, when he was taken into custody after the hearing on September 23, he told a correctional officer, "That's the last time I'm showing up for court." Those facts support an inference that defendant's failure to appear for the November 12 hearing was intentional. Defendant's conduct, which delayed sentencing by nearly three months, went beyond a mere failure to facilitate the sentencing process; the record supports the inference that he was attempting to avoid being held accountable for the sentencing offenses, and his conduct hampered the trial court's ability to impose its sentence.

Defendant's contrary arguments are unpersuasive. Regarding his lack of cooperation with the presentence interview process, he contends that he had a constitutional right not to speak with the probation agent, citing *People v Wright*, 431 Mich 282; 430 NW2d 133 (1988).[3] In that case, our Supreme Court held that the privilege against self-incrimination "attaches at a court-ordered psychiatric examination used for sentencing purposes." *Id*. at 295. But nothing in the record indicates that defendant invoked the privilege in response to any question; instead, the PSIR reflects that defendant "was not cooperative during his PSIR interview and stated that he felt like his PSIR interview was a therapy session." The record therefore does not support a finding that defendant's lack of cooperation with the presentence interview process resulted from his exercise of the right against self-incrimination.

Moreover, the trial court did not assess points for OV 19 merely because defendant declined to answer questions during the presentence interview. In scoring OV 19, the trial court noted that defendant "had not cooperated with the presentence process, so the Court lodged him for up to 14 days to get that presentence report completed," and even then defendant "did not comply with the process." Whatever the scope of the privilege against self-incrimination at a presentence interview may be, it does not entitle a defendant to disregard a court's order to schedule and present himself or herself for a presentence interview.

Concerning his failure to appear on November 12, defendant submits that he misunderstood the hearing date and that, although "he was actually lodged into jail on the night of November 12, 2024, the record supports the inference that he had been taken into custody earlier in the day, thus making it impossible for him" to attend the sentencing scheduled for that morning. But the only evidence of when he entered custody is his own statement at the bench-warrant arraignment that he was booked into the jail "at like 9 p.m." on November 12—i.e., 10 hours after the scheduled hearing—and the trial court was not required to credit his explanation that he misunderstood the date, see MCR 2.613(C). Indeed, his September 23 statement that he would not show up for future hearings supports the trial court's conclusion that defendant intentionally failed to appear on November 12. Defendant argues that his statement merely expressed an intent to waive his right to be present at sentencing. But a valid waiver of that right "arises when the defendant specifically knows of the right to be present and intentionally abandons the protection of that right," *People v Palmerton*, 200 Mich App 302, 303; 503 NW2d 663 (1993) (citations omitted); it does not permit a defendant to simply ignore future scheduled hearings. The trial court

[3] Defendant also relies on *People v Thompson*, unpublished per curiam opinion of the Court of Appeals, issued January 15, 2015 (Docket No. 318694), p 5, in which this Court held that a defendant's failure to cooperate with the preparation of the PSIR alone could not support a 10-point score for OV 19, relying on the reasoning set forth in *Wright*. But *Thompson* is not binding, see MCR 7.215(C)(1), and it did not address a defendant whose lack of cooperation in the presentence interview process delayed sentencing.

properly considered defendant's statement as evidence that his absence was intentional, and it did not err in assessing 10 points for OV 19.[4]

Affirmed.

/s/ Brock A. Swartzle
/s/ Matthew S. Ackerman
/s/ Christopher M. Trebilcock

[4] Defendant also argues that his failure to comply with his bond conditions and his misconduct in jail could not support a 10-point score for OV 19. But the trial court did not rely on that conduct in scoring OV 19. Although the court noted that defendant "failed to cooperate on bond and that there were jail misconducts that occurred," it went on to explain that "in any event, due to having to adjourn the sentencing, I do find [it] appropriate to score OV 19 at 10 points." Because the trial court did not rely on that conduct in scoring OV 19, we need not address whether that conduct could support the points assessed.