

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

BRAD RODNEY BILLS,

Defendant-Appellant.

UNPUBLISHED

June 20, 2024

No. 363229

Sanilac Circuit Court

LC No. 21-008309-FH

Before: GADOLA, C.J., and K. F. KELLY, and MURRAY, JJ.

PER CURIAM.

Defendant was convicted after a jury trial of aggravated stalking, MCL 750.411i, and sentenced to 6 to 15 years in prison as a fourth-offense habitual offender, MCL 769.12. Defendant appeals as of right. We affirm.

I. FACTS

On August 13, 2021, defendant assaulted Amy Smeader at their home. Defendant and Smeader were in a romantic relationship and resided together. Smeader alleged that defendant assaulted her by yanking her hair, punching, forced sexual acts, and strangulation. Defendant was arrested and charged with assault by strangulation and domestic violence. As a condition of his pretrial release, on September 10, 2021, the trial court ordered defendant “Do not have (or cause any third party to have) any direct or indirect contact” with Smeader. While released on bond, and in violation of the trial court’s order, defendant texted and called Smeader’s phone numerous times. Defendant was charged with aggravated stalking; that charge was consolidated for trial with the assault and domestic violence charges.

Defendant retained an attorney who shortly thereafter withdrew due to a conflict of interest. The trial court then appointed an attorney to represent defendant, who at the first pretrial hearing moved to withdraw due to a breakdown in the attorney-client relationship. Defendant retained another attorney, but soon after discharged the attorney and informed the trial court that he wished to represent himself. At each subsequent hearing, the trial court questioned defendant to confirm that he was aware of his right to counsel and explained the advantages of legal representation. At each hearing defendant affirmed that he wished to represent himself. At a status conference held

shortly before trial on June 22, 2022, the trial court found that defendant's waiver of his right to counsel was "knowingly, intelligently, and voluntarily made and also unequivocal."

At a motion hearing held the day before trial, defendant requested a personal recognizance bond to enable him to return to work to earn sufficient money to retain an attorney. The trial court verified that defendant did not want an appointed attorney and was not asking for time to retain an attorney, but instead was asking to be released to resume his employment to earn funds to retain an attorney. The trial court denied the personal recognizance bond, and defendant affirmed that he wished to represent himself at trial.

On the morning of trial, defendant reaffirmed to the trial court that he was choosing to represent himself and was aware that he had the right to appointed counsel. Jury selection then took place, the jury was sworn, the parties made opening statements, and the prosecution's first witness was sworn. Before questioning of the witness began, defendant requested an adjournment of one month to retain an attorney, stating that he did not know how to conduct a jury trial. The trial court denied the request, stating that "we already have 14 jurors seated. I find that it is extremely unlikely if I were to adjourn the trial right now, we would somehow be able to come back with the exact same 14 jurors." The trial court concluded that "I believe that you have had numerous times where you have been offered [assigned] counsel and at every point declined until we have already started the trial so I am going to deny your request and we are going to continue with the trial at this point."

Smeader testified that on the night that defendant assaulted her, the couple spent the evening at a bar where they argued. The assault occurred in the early hours of the next morning. Smeader later went to the home of her friend, Tammy Smith, to avoid defendant, but defendant arrived at Smith's house the next day and was very angry. Smith confirmed Smeader's testimony regarding defendant's angry visit to her home on August 14, 2021. Smith testified that defendant appeared at her home that evening and left soon after, but returned a short time later with three other men. Smith testified that defendant was angry and wanted Smeader, but eventually left.

Smeader testified that after the assault and defendant's subsequent arrest, defendant called and texted her phone numerous times. The prosecution presented evidence that Smeader's phone received 3,151 text messages and 298 phone calls from defendant's phone numbers between August 21, 2021, and October 12, 2021. Smeader also called and sent text messages to defendant during this time, and Smeader admitted that she met with defendant more than once after the assault. Defendant's brother, Jason Bills, testified that Smeader contacted defendant after the assault and that he saw Smeader meet with defendant after the assault and defendant's arrest.

As the trial proceeded, defendant had difficulty complying with the rules of evidence and responding to the prosecution's objections. Outside of the presence of the jury, the trial court again considered defendant's request for counsel. The prosecution asserted that an adjournment would significantly prejudice the prosecution given the distress exhibited by the prosecution's witnesses who had testified that morning. After further discussion with defendant, the trial court concluded:

Now, you have been in custody for months, you have had months to seek or request counsel, and in fact, if you would have requested counsel before the jury was seated, I would have gladly sent the jury home, I would have probably told you

about the cost you just cost the county but I would have certainly sent them home, adjourned the trial, and found counsel for you but you waited until after the jury was seated, after double jeopardy attaches, and then opening statements took place so I do find that you did not reasonably and diligently seek counsel and you certainly [were not] reasonably diligent in doing so. I also find an adjournment would significantly prejudice the Prosecution based on all of the witnesses that they have subpoenaed, that they have had here in addition to double jeopardy attaching when the jury is seated. . . . so I am still denying your request and I will admit for the record you have revoked your waiver, you have requested an attorney following opening statements taking place, but I am denying that request and we can now proceed with the trial.

After the parties rested, the trial court provided the parties the proposed final jury instructions. Defendant confirmed that he was given a copy of the jury instructions on the previous day and had reviewed them. The trial court asked about each jury instruction individually, and defendant indicated he was agreeable to each of them. After deliberation, the jury found defendant not guilty of assault by strangulation, but guilty of domestic violence and aggravated stalking.

At sentencing, defendant was represented by counsel. He was sentenced as a fourth-offense habitual offender to concurrent sentences of 365 days in the county jail with credit for 330 days served for the domestic violence conviction and 6 to 15 years' imprisonment for the aggravated stalking conviction. Defendant moved in the trial court to correct the sentence, contending that offense variable 10 (OV 10) was improperly scored at 15 points, resulting in an inflated guidelines range. The trial court denied the motion finding that OV 10 was correctly scored. Defendant now appeals, challenging his conviction for aggravated stalking and his sentence for that offense.

II. DISCUSSION

A. RIGHT TO COUNSEL

Defendant contends that the trial court violated his constitutional right to be represented by counsel at trial. We disagree.

We review a trial court's decision to permit a defendant to represent himself or herself for an abuse of discretion. *People v Anderson*, 398 Mich 361, 367; 247 NW2d 857 (1976). A trial court abuses its discretion when its decision falls outside the range of reasonable and principled outcomes. *People v Johnson*, 502 Mich 541, 564; 918 NW2d 676 (2018). We review the trial court's underlying factual findings regarding a knowing and intelligent waiver of Sixth Amendment rights for clear error. "Credibility is crucial in determining a defendant's level of comprehension, and the trial judge is in the best position to make this assessment." *Id.* (quotation marks and citations omitted). Clear error occurs when the appellate court is left with a definite and firm conviction that the trial court made a mistake. *Id.* at 565. Whether the facts as found constitute a knowing and intelligent waiver, however, is a question of law that we review de novo. *People v Williams*, 470 Mich 634, 640; 683 NW2d 597 (2004).

“The right to the assistance of counsel at all critical stages of criminal proceedings for an accused facing incarceration is protected by the Sixth Amendment, applicable to the states through the Fourteenth Amendment,” and is also protected by the Michigan Constitution. *People v King*, 512 Mich 1, 11; 999 NW2d 670 (2023), citing US Const, Ams VI and XIV and Const 1963, art 1, §§13, 20. The constitutionally guaranteed right to the assistance of counsel in a criminal proceeding includes the right to have counsel appointed at public expense for indigent defendants. See *People v Jackson*, 483 Mich 271, 278; 769 NW2d 630 (2009).

The right to self-representation is also a right protected by the Sixth and Fourteenth Amendments of the United States Constitution, and well as by the Michigan Constitution. *King*, 512 Mich at 11, citing US Const, Ams VI and XIV; Const 1963, art 1, §§13, 20. “Choosing self-representation necessarily requires waiving the right to be represented by counsel.” *King*, 512 Mich at 11. The Constitution requires that the waiver of the right to counsel, and to thereby exercise the right to self-representation, to be knowing, voluntary, and intelligent. *Id.*

Before granting a defendant’s request to represent himself or herself, the trial court must “substantially comply” with the requirements stated in *Anderson*, 398 Mich at 367-368 and MCR 6.005(D), for a defendant “to effectuate a valid waiver of the right to counsel.” *King*, 512 Mich at 11. Under *Anderson*, the trial court must find that (1) the defendant’s request to represent himself or herself is unequivocal, (2) the defendant is asserting the right knowingly, intelligently, and voluntarily after being informed of the dangers and disadvantages of self-representation, and (3) the defendant’s self-representation “will not disrupt, unduly inconvenience and burden the court and the administration of the court’s business.” *Id.* In addition, under MCR 6.005(D), the trial court may not permit the defendant to waive the right to counsel without first (1) advising the defendant of the charge, the maximum possible prison sentence for the offense, any mandatory minimum sentence, and the risk of self-representation, and (2) offering the defendant the opportunity to consult with either a retained lawyer or an appointed lawyer if the defendant is indigent. *King*, 512 Mich at 11-12.

MCR 6.005 also provides, in pertinent part:

(E) Advice at Subsequent Proceedings. If a defendant has waived the assistance of a lawyer, the record of each subsequent proceeding (e.g., preliminary examination, arraignment, proceedings leading to possible revocation of youthful trainee status, hearings, trial or sentencing) need show only that the court advised the defendant of the continuing right to a lawyer’s assistance (at public expense if the defendant is indigent) and that the defendant waived that right. Before the court begins such proceedings,

- (1) the defendant must reaffirm that a lawyer’s assistance is not wanted; or
- (2) if the defendant requests a lawyer and is financially unable to retain one, the court must refer the defendant to the local indigent criminal defense system’s appointing authority for the appointment of one; or

(3) if the defendant wants to retain a lawyer and has the financial ability to do so, the court must allow the defendant a reasonable opportunity to retain one.

The court may refuse to adjourn a proceeding for the appointment of counsel or allow a defendant to retain counsel if an adjournment would significantly prejudice the prosecution, and the defendant has not been reasonably diligent in seeking counsel.

The requirements of MCR 6.005(E) can be met if it is apparent from the record that the trial court reaffirmed the availability of a lawyer and the defendant decided to forgo one. See *People v Lane*, 453 Mich 132, 137; 551 NW2d 382 (1996). A defendant who successfully asserts the right to self-representation is held to the same standards as a member of the bar. *People v Thurmond*, ___ Mich App ___, ___; ___ NW2d ___ (2023) (Docket No. 361302); slip op at 12. In addition, a defendant who asserts his right to self-representation is not entitled to advisory or standby counsel. *People v Dennany*, 445 Mich 412, 443; 519 NW2d 128 (1994).

In this case, it is undisputed that defendant waived his right to appointed counsel and asserted his right to represent himself until the trial had begun. At the hearing the day before trial, defendant requested a personal recognizance bond, stating: “If I was to be given bond, I could retain an attorney.” In clarifying what defendant was requesting, the trial court stated: “[I]f at any point you tell me you would like an attorney, I am going to stop the hearing. I am going to, in all likelihood, adjourn the hearing and the trial because the trial is tomorrow.” On the trial court’s inquiry, defendant confirmed he was not asking for an appointed attorney and was not asking for time to hire an attorney unless he was permitted a personal recognizance bond to resume employment and earn money to pay an attorney. After he was denied the requested bond modification, he reaffirmed his choice to represent himself. In doing so, defendant did not revoke his waiver of the right to counsel. Having once again rejected the offer of appointed counsel, defendant again asserted his right to self-representation. See *King*, 512 Mich at 11. On the morning of trial, before jury selection, defendant again told the trial court that he only wished to have an attorney represent him if he “could retain one,” but that he was not asking for time to retain one because he “would have to bond out to do that.” Defendant again did not revoke his waiver of the right to counsel.

After the jury was impaneled and the first witness was sworn, defendant requested adjournment of one month to retain an attorney. Defendant stated that he did not want an appointed attorney, but stated: “You can appoint me counsel right now but my brother is here in the hall calling attorneys right now, so,” and then indicated he was requesting appointed counsel, but would replace the appointed counsel with retained counsel soon.

As noted, under MCR 6.005, after defendant’s valid waiver of counsel, the trial court at each subsequent proceeding was required to “advise[] the defendant of the continuing right to a lawyer’s assistance (at public expense if the defendant is indigent),” and confirm defendant’s waiver of the right. MCR 6.005(E). The trial court complied with these requirements as the trial proceedings began, before jury selection. MCR 6.005(E) specifies “[b]efore the court begins such proceedings,” the defendant must reaffirm his or her waiver, or if they revoke the waiver, the trial court must refer the defendant to an appointing authority or allow the defendant an opportunity to

retain a lawyer (emphasis added). In this case, the trial court fulfilled this obligation at the beginning of each proceeding, including defendant's jury trial.

MCR 6.005(E) also provides that the trial court "may refuse to adjourn a proceeding for the appointment of counsel or [to] allow a defendant to retain counsel if an adjournment would significantly prejudice the prosecution, and the defendant has not been reasonably diligent in seeking counsel." MCR 6.005(E). The trial court in this case made it clear that it was refusing adjournment after the jury was impaneled because jeopardy had attached,¹ defendant repeatedly declined the offer of appointed counsel, and adjournment would significantly prejudice the prosecution. The trial court complied with MCR 6.005 in its repeated advisement of rights and confirmation of defendant's waiver, and in its reasons for refusing an adjournment after trial began. Defendant was not denied his right to counsel.

B. SUFFICIENCY OF EVIDENCE

Defendant contends that his conviction of aggravated stalking was not supported by sufficient evidence, arguing that the prosecution failed to prove that defendant's contact with Smeader was unconsented contact. We disagree.

We review a challenge to the sufficiency of the evidence de novo and view the evidence in the light most favorable to the prosecution to determine whether a rational trier of fact could have found the essential elements of the crime were proven beyond a reasonable doubt. *People v Oros*, 502 Mich 229, 239; 917 NW2d 559 (2018). In doing so, we draw all reasonable inferences and make credibility choices in support of the jury verdict. *Id.*

In a criminal case, the prosecutor must introduce evidence sufficient to justify a rational trier of fact finding guilt beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 513-514; 489 NW2d 748 (1992). The prosecutor, however, is not required to disprove every possible theory consistent with innocence. See *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Circumstantial evidence and the reasonable inferences arising from the evidence may constitute sufficient evidence to demonstrate the elements of the offense. *Oros*, 502 Mich at 239. The trier of fact determines the inferences to be drawn from the evidence, the weight to be accorded to those inferences, and the credibility of the witnesses. *Id.*

Aggravated stalking is the crime of stalking combined with an aggravating circumstance. *People v Threatt*, 254 Mich App 504, 505; 657 NW2d 819 (2002). "Stalking" is "a willful course of conduct involving repeated or continuing harassment of another individual that would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested and that actually causes the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested." MCL 750.411i(1)(e). "Course of conduct" is "a pattern of conduct composed of a series of 2 or more separate noncontinuous acts evidencing a continuity of purpose." MCL 750.411i(1)(a). "Harassment" is conduct directed toward the victim that includes "repeated or continuing unconsented contact that would cause a reasonable individual to suffer emotional

¹ Jeopardy attaches when the jury is selected and sworn. *People v Lett*, 466 Mich 206, 215; 644 NW2d 743 (2002).

distress and that actually causes the victim to suffer emotional distress.” MCL 750.411i(1)(d). “Unconsented contact” is “any contact with another individual that is initiated or continued without that individual’s consent or in disregard of the individual’s expressed desire that the contact be avoided or discontinued,” MCL 750.411i(1)(f).

Aggravated stalking is addressed in MCL 750.411i(2)(a) as follows, in relevant part:

(2) An individual who engages in stalking is guilty of aggravated stalking if the violation involves any of the following circumstances:

* * *

(b) At least 1 of the actions constituting the offense is in violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal.

In sum, to establish aggravated stalking, the prosecution is required to establish two or more acts of unconsented contact evidencing continuity of purpose, MCL 750.411i(1)(a), (d), which “would cause a reasonable person to feel terrorized, frightened, intimidated, threatened, harassed, or molested,” MCL 750.411i(1)(e), which “actually cause[d] the victim to feel terrorized, frightened, intimidated, threatened, harassed, or molested,” MCL 750.411i(1)(e), and also an aggravating circumstance, such as a “violation of a condition of probation, a condition of parole, a condition of pretrial release, or a condition of release on bond pending appeal,” MCL 750.411i(2)(b).

Here, defendant challenges only whether the prosecution established that his contact with Smeader constituted unconsented contact. As noted, MCL 750.411i(1)(f) provides:

(f) “Unconsented contact” means any contact with another individual that is initiated or continued without that individual’s consent or in disregard of that individual’s expressed desire that the contact be avoided or discontinued. Unconsented contact includes, but is not limited to, any of the following:

(i) Following or appearing within the sight of that individual.

(ii) Approaching or confronting that individual in a public place or on private property.

(iii) Appearing at that individual’s workplace or residence.

(iv) Entering onto or remaining on property owned, leased, or occupied by that individual.

(v) Contacting that individual by telephone.

(vi) Sending mail or electronic communications to that individual.

(vii) Placing an object on, or delivering an object to, property owned, leased, or occupied by that individual.

After defendant's arrest, the trial court imposed as a condition of his pretrial release, in an order dated September 10, 2021, that defendant "not have (or cause any third party to have) any direct or indirect contact" with Smeader. In violation of the trial court's order, defendant thereafter texted and called Smeader numerous times. Smeader testified that after defendant's arrest, she received numerous calls and text messages from defendant, and the prosecution presented evidence that Smeader's phone received 3,151 text messages and 298 phone calls from defendant's phone numbers between August 21, 2021, and October 12, 2021. Defendant argues that Smeader also called and sent text messages to him during this time, and that Smeader admitted that she met with him more than once after the assault. The prosecution presented evidence, however, that Smeader thereafter blocked defendant's phone number and refused to answer his numerous phone calls and text messages.

The prosecution was not required to prove that Smeader explicitly asked defendant to stop contacting her, but only that defendant's calls and texts were without Smeader's consent. Here, the numerous unanswered text messages and phone calls and Smeader's blocking of contacts from defendant's number were proof beyond a reasonable doubt that Smeader did not consent to the contacts. The fact that Smeader met with defendant after the assault and that her phone showed contact with defendant during this period does not refute that defendant's numerous other calls and messages were unconsented. Circumstantial evidence and the reasonable inferences that arise from the evidence can constitute proof beyond a reasonable doubt, and the standard of review is deferential to the jury verdict. See *Oros*, 502 Mich at 239. Sufficient evidence was presented to establish that defendant's contacts were unconsented.

C. JURY INSTRUCTION

Defendant contends that the trial court erred by providing the jury an optional instruction, which defendant argues was not supported by the evidence. Defendant has waived this issue.

After defendant rested, the trial court provided the parties the proposed final jury instructions. Defendant confirmed he was given a copy the previous day and reviewed the instructions. The trial court asked about each jury instruction individually, and defendant agreed to each, including the following instruction:

(8) You have heard evidence that the defendant continued to make repeated unconsented contact with [*name complainant*] after [he/she] requested the defendant to discontinue that conduct or some different form of unconsented contact and requested the defendant to refrain from any further unconsented contact. If you believe that evidence, you may, but are not required to, infer that the continued course of conduct caused [*name complainant*] to feel terrorized, frightened, intimidated, threatened, harassed, or molested. Even if you make that inference, remember that the prosecutor still bears the burden of proving all of the elements of the offense beyond a reasonable doubt. [M Crim JI 17.25(8).]

A defendant in criminal proceedings is entitled to have the jury properly instructed. *People v Ogilvie*, 341 Mich App 28, 34; 989 NW2d 250 (2022). Defendant contends that the trial court erred by giving the jury this optional instruction because there was no evidence introduced that Smeader requested that defendant discontinue or refrain from contact with her. We conclude that defendant waived this challenge.

Waiver is “the intentional relinquishment or abandonment of a known right.” *King*, 512 Mich at 9; see also *People v Carines*, 460 Mich 750, 762 n 7; 597 NW2d 130 (1999). A waiver extinguishes not only a right, but also any right to pursue on appeal a claimed deprivation of that right. *King*, 512 Mich at 9. By contrast, forfeiture is the failure timely to assert a right. *Id.* When a party waives a right, the party may not then seek appellate review of a claimed deprivation of that right because the waiver has extinguished any error. *Id.* When defense counsel clearly expresses satisfaction with a jury instruction, counsel’s action constitutes waiver extinguishing any error regarding the instruction. *People v Kowalski*, 489 Mich 488, 503-505; 803 NW2d 200 (2011); see also *People v Miller*, 326 Mich App 719, 726; 929 NW2d 821 (2019) (“[W]hen the trial court asks whether a party has any objections to the jury instructions and the party responds negatively, it is an affirmative approval of the trial court’s instructions.”) Here, defendant’s affirmative approval of the proposed jury instruction waived any right to appellate review of the instruction.

D. OV 10

Defendant contends that he is entitled to resentencing because the trial court erred by scoring OV 10 at 15 points when calculating his sentencing guidelines. We disagree.

When considering a challenge to the scoring of sentencing guidelines, we review for clear error the trial court’s factual findings, which must be supported by a preponderance of the evidence. *People v Calloway*, 500 Mich 180, 184; 895 NW2d 165 (2017). We review de novo whether the trial court’s factual findings support a particular score under the guidelines, which is a question of statutory interpretation. *Id.*

A defendant is entitled to be sentenced based on accurate information and accurately scored sentencing guidelines. *People v Francisco*, 474 Mich 82, 88; 711 NW2d 44 (2006). Resentencing is appropriate when the defendant’s sentence was based upon an inaccurate calculation of the sentencing guidelines range. *Id.* at 89.² When scoring the sentencing guidelines variables, the trial court may consider all record evidence, including the presentence investigation report, plea admissions, and testimony from the preliminary examination, *People v Barnes*, 332 Mich App 494, 499; 957 NW2d 62 (2020), as well as reasonable inferences arising from the record evidence. *People v McFarlane*, 325 Mich App 507, 532; 926 NW2d 339 (2018).

MCL 777.40 provides, in relevant part:

² If a scoring error does not affect the sentencing guidelines range, the defendant is not entitled to resentencing. *Francisco*, 474 Mich at 89 n 8.

(1) Offense variable 10 is exploitation of a vulnerable victim. Score offense variable 10 by determining which of the following apply and by assigning the number of points attributable to the one that has the highest number of points:

(a) Predatory conduct was involved.....15 points

(b) The offender exploited a victim's physical disability, mental disability, youth or agedness, or a domestic relationship, or the offender abused his authority status.....10 points

(c) The offender exploited a victim by his difference in size or strength, or both, or exploited a victim who was intoxicated, under the influence of drugs, asleep, or unconscious.....5 points

(d) The offender did not exploit a victim's vulnerability.....0 points

(2) The mere existence of 1 or more factors described in subsection (1) does not automatically equate with victim vulnerability.

(3) As used in this section:

(a) "Predatory conduct" means preoffense conduct directed at a victim, or a law enforcement officer posing as a potential victim, for the primary purpose of victimization.

Predatory conduct under MCL 777.40(3)(a) encompasses only those forms of preoffense conduct that are commonly considered to be predatory, such as lying in wait and stalking, rather than purely opportunistic criminal conduct. *People v Huston*, 489 Mich 451, 462 n 7; 802 NW2d 261 (2011). A defendant does not need to have direct or physical contact with the victim to exploit or manipulate them. *People v Needham*, 299 Mich App 251, 255-256; 829 NW2d 329 (2013).

In this case, the offense in question was defendant's aggravated stalking of Smeader, which occurred after his assault of Smeader and the trial court's September 12, 2021 order that defendant have no further contact with Smeader. Before the aggravated stalking occurred, defendant pursued Smeader to the home of her friend, Tammy Smith, where Smeader had fled from defendant after the assault. Both Smeader and Smith testified that defendant pursued Smeader to Smith's house. Smeader testified when defendant came to Smith's house, defendant "was very, very upset," and during the stalking conduct she "was worried he was going to show up wherever I hid out."

Smith confirmed defendant's "angry" appearance at her house, and testified that defendant appeared there twice on the same day, the second time arriving with three other men. A reasonable inference from defendant's preoffense conduct is that defendant intended to make Smeader more susceptible to the fear that defendant would find her wherever she went. We conclude that the trial court's factual findings support the score of 15 for OV 10.

Affirmed.

/s/ Michael F. Gadola
/s/ Kirsten Frank Kelly
/s/ Christopher M. Murray