

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

FELICIA HAZEL RILEY,

Defendant-Appellant.

UNPUBLISHED

December 19, 1997

No. 198246

Kent Circuit Court

LC No. 95-002700 FH

Before: Griffin, P.J., and Markman and Whitbeck, JJ.

MEMORANDUM.

Defendant appeals, by delayed leave granted, MCR 7.205, her guilty plea conviction of one count of uttering and publishing, MCL 750.249; MSA 28.446. The conviction resulted in a sentence of two to fourteen years' imprisonment. This sentence was consecutive to a sentence defendant was already serving after being adjudicated a parole violator. We decide this appeal without oral argument pursuant to MCR 7.214(E).

Defendant contends that her statutory right to speedy trial, MCL 780.131; MSA 28.969(1), was violated where she was removed to prison pending resolution of probation violation charges on September 26, 1995, adjudged a parole violator on October 20, 1995, and not returned to the circuit court on writ of habeas corpus ad prosequendam until April 2, 1996, more than 180 days after she once again became a prisoner facing these untried charges. Defendant's plea of guilty was a waiver of such rights as a matter of law. *People v Smith*, 438 Mich 715; 475 NW2d 333 (1991). However, because at the time of defendant's guilty plea the trial court indicated that it did not believe a plea would waive the issue, and thus defendant's plea may have been induced by incorrect advice from the trial court itself, the merits of the issue will be determined.

Defendant was a parolee at the time this offense was committed. Upon conviction, she became subject to mandatory consecutive sentencing. Therefore, her sentence on this conviction is to be consecutive to that for which she was on parole. MCL 768.7a(2); MSA 28.947(1)(2); *Wayne Co Prosecutor v Dep't of Corrections*, 451 Mich 569; 548 NW2d 900 (1996). Where the

sentence for the new crime is mandatorily consecutive, the 180-day statute does not apply. *People v Conner*, 209 Mich App 419; 531 NW2d 734 (1995).

Affirmed.

/s/ Richard Allen Griffin

/s/ Stephen J. Markman

/s/ William C. Whitbeck