

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHRISTOPHER MARK LANING,

Defendant-Appellant.

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UNPUBLISHED

April 30, 1999

No. 202011

Ottawa Circuit Court

LC No. 95-018909 FH

Before: Gage, P.J., and Gribbs and Hoekstra, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted his plea based conviction for operating under the influence, third offense, MCL 257.625; MSA 9.2325. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, defendant argues that the trial court erred in denying his motion to dismiss, based on a violation of the 180-day rule, MCL 780.131; MSA 28.969(1). Defendant entered a conditional no contest plea to the OUIL charge, preserving this issue for appeal. MCR 6.301(C)(2).

The trial court relied on *People v Wright*, 128 Mich App 374; 340 NW2d 93 (1983) and *People v Gambrell*, 157 Mich App 253; 402 NW2d 535 (1987), for the proposition that when a defendant is incarcerated on a pending parole violation charge, the 180-day period does not begin to run until parole is revoked. However, unlike those cases, here defendant was incarcerated by the department of corrections and not local authorities. Thus, the statute arguably would apply to defendant.

The 180-day rule does not require that trial commence within 180 days. Rather, if apparent good-faith action is taken well within that period, and the prosecutor proceeds promptly toward readying the case for trial, the rule is satisfied. MCR 6.004(D), *People v Bell*, 209 Mich App 273, 278; 530 NW2d 167 (1995); *People v Bradshaw*, 163 Mich App 500, 505; 415 NW2d 259 (1987).

The court file shows that efforts were made to bring the matter to trial within the 180-day period. There is no indication why the scheduled trial was adjourned. However, it is unnecessary to

remand the matter for further findings as to the cause of the delay. The purpose of the 180-day rule is to dispose of untried charges against prison inmates so that sentences may run concurrently. *People v McCullum*, 201 Mich App 463, 465; 507 NW2d 3 (1993). That purpose does not apply in the present case where defendant was on parole at the time he committed the instant offense. *People v Chavies*, \_\_\_ Mich App \_\_\_; \_\_\_ NW2d \_\_\_ (Docket No. 199997, issued 2/26/99). Defendant's sentence was required to be consecutive to his prior sentence under MCL 769.7a(2); MSA 28.1030(1)(2). *Wayne Co Prosecutor v Dep't of Corrections*, 451 Mich 569; 548 NW2d 900 (1996). The trial court did not err in denying defendant's motion to dismiss based on violation of the 180-day rule.

Affirmed.

/s/ Hilda R. Gage  
/s/ Roman S. Gibbs  
/s/ Joel P. Hoekstra