

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

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

EDWARD THOMAS KELMAN,

Defendant-Appellant.

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UNPUBLISHED

May 7, 1999

No. 200961

Saginaw Circuit Court

LC Nos. 93-007992 FH &

93-007993 FH

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

MEMORANDUM.

In 1994, defendant pleaded guilty to two counts of uttering and publishing, MCL 750.249; MSA 28.446, and was sentenced to concurrent terms of five years' probation. Defendant later pleaded guilty to violating the terms of his probation in 1996, and he was resentenced to two and one-half to fourteen years' imprisonment, with 155 days of credit for time served. Defendant now appeals by right, and we affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant contends he is entitled to additional sentence credit in these cases for time during which he was incarcerated on unrelated charges in either the Bay or Iosco County Jail, as a remedy for alleged undue delay in the prosecution of earlier probation charges that were ultimately dismissed and/or to effectuate concurrent sentencing. Cf. *People v Face*, 88 Mich App 435, 440-442; 276 NW2d 916 (1979). Specifically, defendant seeks credit from October 11, 1994, when a "hold" was placed pursuant to a 1994 probation violation bench warrant in these cases, until March 8, 1995, when defendant was arraigned on that bench warrant and personal recognizance bond was set.

Defendant's argument overlooks the fact that he was never sentenced on the 1994 probation violation charges in this case, as those charges were ultimately dismissed, thereby rendering moot any issues of undue delay of prosecution or effective concurrent sentencing with respect to those prior charges. Defendant has not presented any basis for granting additional

sentence credit against the sentences imposed pursuant to the subsequent probation violation charges arising in 1996.

Affirmed.

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