

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

MALCOLM B. BRYANT,

Defendant-Appellant.

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UNPUBLISHED

May 11, 1999

No. 200546

Genesee Circuit Court

LC No. 94-050988 FH

Before: Saad, P.J., and Kelly and Bandstra, JJ.

KELLY, J. (concurring).

I agree with the majority's conclusion that defendant did, in fact, consent to the jurisdiction of the trial court by appearing before it and not challenging jurisdiction. *People v Richards*, 205 Mich App 438, 444-445; 517 NW2d 823 (1994). However, I write separately to question the reasoning given by the trial court in delaying the scheduled January 26, 1996, *Ginther* hearing approximately nine months.

On December 16, 1997, defendant's motion to withdraw his guilty plea and motion to vacate his sentence was heard by the trial court. In addressing the nine month delay in holding the *Ginther* hearing and the subsequent sentencing on December 20, 1996, the trial court stated that the initial delay was necessary in order to accommodate a civil trial on the court's docket. This strikes me as somewhat implausible. It is very rare in Michigan jurisprudence that a single trial will consume so much of a court's calendar. If, in fact, such a delay was necessary in this case, I believe the trial court should have articulated the reasoning in greater detail on the record.

However, due to defendant's failure to contest jurisdiction at the time of sentencing, I believe defendant effectively waived any challenge to the jurisdiction of the trial court. *Richards, supra*. Therefore, I concur in the result of the majority's opinion.

/s/ Michael J. Kelly