

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

AUNDRAY RENARD BRADLEY,

Defendant-Appellant.

UNPUBLISHED

February 6, 2001

No. 226413

Macomb Circuit Court

LC No. 98-002222-FH

Before: Collins, P.J., and Doctoroff and White, JJ.

MEMORANDUM.

Defendant appeals by delayed leave granted from a plea-based conviction of unarmed robbery, MCL 750.530; MSA 28.798, for which he was sentenced as an habitual offender, second offense, MCL 769.10; MSA 28.1082, to 4 to 22½ years in prison. We remand for correction of the judgment of sentence. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant contends, and the prosecutor concedes, that the trial court erred in denying defendant's request for credit for time served pursuant to MCL 769.11b; MSA 28.1083(2). We review this issue de novo on appeal. *People v Givans*, 227 Mich App 113, 124; 575 NW2d 84 (1997).

As defendant was jailed pending disposition of the instant offense because he was unable to post bond, he was entitled to credit for the time served prior to sentencing. MCL 769.11b; MSA 28.1083(2). Because defendant committed the instant offense while on parole from federal prison, where he was serving a twelve-year sentence for bank robbery, the trial court denied sentence credit, apparently believing that credit should be applied to the federal sentence.

Because defendant committed the instant offense while on parole, his sentence was consecutive to the remainder of the federal sentence. MCL 768.7a(2); MSA 28.1031(1)(2); *People v Phillips*, 217 Mich App 489, 499-501; 552 NW2d 487 (1996). If a defendant receives a consecutive sentence for an offense committed while on parole from a prior sentence imposed by a court of this state, the credit for time served prior to sentencing on the subsequent offense is to be applied to the remaining portion of the sentence for the paroled offense. *People v Watts*, 186 Mich App 686, 691; 464 NW2d 715 (1991); *People v Brown*, 186 Mich App 350, 359; 463 NW2d 491 (1990). If, however, a defendant receives a consecutive sentence for an offense

committed while on parole from a prior sentence imposed by a court of another state, a court of this state is without jurisdiction to order the other state to grant credit toward the paroled offense and thus the credit must be applied to the subsequent offense. *People v Johnson*, 205 Mich App 144, 147; 517 NW2d 273 (1994). The same holds true where a defendant receives a consecutive sentence for an offense committed while on parole from a federal sentence. *Phillips, supra* at 501. Therefore, the trial court erred in denying defendant's request for credit for time served.

Remanded for correction of the judgment of sentence to reflect appropriate credit for time served. We do not retain jurisdiction.

/s/ Jeffrey G. Collins
/s/ Martin M. Doctoroff
/s/ Helene N. White