

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

BRADLEY WAYNE JACOBSON,

Defendant-Appellee.

UNPUBLISHED

July 12, 2002

No. 238475

Genesee Circuit Court

LC No. 2001-007982-FC

Before: Hood, P.J., and Saad and E. M. Thomas*, JJ.

MEMORANDUM.

The prosecutor appeals as of right from a circuit court order granting defendant's motion to dismiss for violation of the 180-day rule, MCL 780.131(1). We reverse and remand. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Pursuant to MCL 780.131(1), whenever the department of corrections receives notice of pending criminal charges for which a prison sentence might be imposed against an inmate, "the inmate shall be brought to trial within 180 days after the department of corrections causes to be delivered to the prosecuting attorney . . . written notice of the place of imprisonment of the inmate and a request for final disposition of the" charges. In the event "action is not commenced on the matter" within the 180-day period, the court loses jurisdiction over the charges. MCL 780.133. The rule does not require that trial be commenced or concluded within the 180-day period, only that the prosecutor make a good faith effort to bring the case to trial within that period. *People v Hendershot*, 357 Mich 300, 303-304; 98 NW2d 568 (1959); MCR 6.004(D)(1).

In this case, the trial was scheduled to begin in July 2001, but the prosecutor neglected to have defendant transported to the court from prison and the trial was adjourned for three weeks. That delay is attributable to the prosecutor. *People v England*, 177 Mich App 279, 286; 441 NW2d 95 (1989). The case was called for trial twice more within the 180-day period, but adjourned both times because the court was already in trial. Because the prosecutor acted in good faith and the delay beyond the 180-day period "was not accompanied by an evident intent

* Circuit judge, sitting on the Court of Appeals by assignment.

not to bring the case to trial promptly,” *People v Bell*, 209 Mich App 273, 279; 503 NW2d 167 (1995), the 180-day rule was not violated. *Id.*

Reversed and remanded. We do not retain jurisdiction.

/s/ Harold Hood

/s/ Henry William Saad

/s/ Edward M. Thomas