

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

JAMES WILLIAM TRAMMEL, II,

Defendant-Appellant.

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UNPUBLISHED  
September 9, 2004

No. 247419  
Tuscola Circuit Court  
LC No. 99-007617-FH

Before: Donofrio, P.J., and White and Talbot, JJ.

MEMORANDUM.

Defendant appeals as of right his resentencing on two counts of third degree criminal sexual conduct, MCL 750.520d. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was resentenced as a fourth habitual offender to two sixteen to thirty year terms, consecutive to a federal sentence defendant was serving. Defendant was given credit for 193 days served. On appeal, defendant argues that the trial court erred in reducing the amount of sentence credit at resentencing.

Under MCL 769.11b, a defendant is entitled to sentence credit if he is incarcerated due to his inability to post bond. The primary purpose of the sentencing credit statute is to equalize the status of an indigent person with the status of an accused who can afford to post bail. *People v Prieskorn*, 424 Mich 327, 340; 381 NW2d 646 (1985). A defendant does not receive sentence credit for time that he is incarcerated on another offense. *People v Givans*, 227 Mich App 113, 125; 575 NW2d 84 (1997). Where a defendant commits a state offense while on parole from a federal offense, consecutive sentences are mandated by MCL 768.7a(2). *People v Phillips*, 217 Mich App 489, 499; 552 NW2d 487 (1996). Defendant was not entitled to sentence credit for time that he was incarcerated due to the federal offense, rather than the inability to post bond.

Unlike *Phillips*, there was no confusion here regarding the proper sentence credit at the time of resentencing. The presentence report recommended the revised credit, and defendant did not object to the report or request modification. The trial court clearly stated the basis for its

recalculation of the credit. Defendant has presented no evidence that would call into question the trial court's calculations.

Affirmed.

/s/ Pat M. Donofrio  
/s/ Helene N. White  
/s/ Michael J. Talbot