

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICHARD ALLEN SHORT,

Defendant-Appellant.

UNPUBLISHED

October 28, 2004

No. 247564

Genesee Circuit Court

LC No. 99-004113-FH

Before: Whitbeck, C.J., and Jansen and Bandstra, JJ.

PER CURIAM.

Defendant appeals by delayed leave granted from a sentence of 40 to 60 months in prison imposed on a plea-based conviction of attempted uttering and publishing, MCL 750.249, following a determination that defendant violated probation. We affirm.

Defendant was convicted of the above offense in 1999 and sentenced to five years' probation with the first year in jail. As of January 2002, defendant was incarcerated on pending charges of embezzlement. He was convicted of those charges in April 2002 and a warrant for violation of probation was issued within a week. In July 2002, defendant pleaded guilty to violation of probation and the court revoked probation and imposed a prison sentence. The trial court granted defendant sentence credit for the jail sentence imposed as part of the probationary sentence as well as a few days extra for time spent awaiting resolution of the probation violation proceedings. Defendant contends that he was entitled to credit for the entire period between issuance of the warrant for violation of probation and imposition of sentence. However, he concedes that he was incarcerated during this period because of the embezzlement conviction. We review de novo the issue of sentence credit on appeal. *People v Givans*, 227 Mich App 113, 124; 575 NW2d 84 (1997).

At one time, some panels of this Court followed the so-called "liberal approach" to sentence credit, which "affords credit for any presentence confinement served for whatever the reason, and whether related or unrelated to the crime for which the sentence in issue is imposed[.]" *People v Prieskorn*, 424 Mich 327, 334; 381 NW2d 646 (1985). However, our Supreme Court later rejected that liberal interpretation of the sentence credit statute, MCL 769.11b, and held that "[t]o be entitled to sentence credit for presentence time served, a defendant must have been incarcerated 'for the offense of which he is convicted.'" *Prieskorn*, *supra* at 344. If the period of incarceration for which the defendant seeks credit is unrelated to

the offense of which he has been convicted, “he is not entitled to sentence credit for that confinement.” *Id.*

Accordingly, defendant is not entitled to credit for time he served because of the embezzlement conviction.

We affirm.

/s/ William C. Whitbeck

/s/ Kathleen Jansen

/s/ Richard A. Bandstra